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The State of South Carolina
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A Sunset Review of the
South Carolina
Public Service Commission
June 23, 1988

THE STATE OF SOUTH CAROLINA

GENERAL ASSEMBLY

LEGISLATIVE AUDIT COUNCIL

A SUNSET REVIEW OF THE SOUTH CAROLINA

PUBLIC SERVICE COMMISSION

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PUBLIC SERVICE COMMISSION REPORT SUMMARY

In July 1978, the General Assembly passed Act 608 which became known as the "Sunset Act." This Act abolishes specific boards and commissions as of predetermined dates and requires the Audit Council to review each board one year prior to the termination date. The Public Service Commission (PSC) is scheduled to terminate on June 30, 1989, unless reauthorized by the Legislature. The Sunset Act requires the Audit Council to address eight issues concerning PSC's operations (see Appendix A). This is the Audit Council's second sunset review of PSC, and progress has been made since the last audit was published in 1982 (see Appendix B). In addition, during this review, PSC appointed a new Executive Director who expressed his commitment to implement needed corrective action.

The Council has reviewed PSC's statutes, regulations, regulatory duties, functions, and policies and procedures and concludes that PSC fulfills a public need through the regulation of utilities. However, PSC's economic regulation of competitive businesses, such as trucking, radio common carriers, cellular telephones, and the telegraph industry, could be relaxed. The following pages summarize problems found at PSC.

1. TRANSPORTATION DIVISION

The Transportation Division is responsible for regulating entry into the motor carrier industry, setting rates charged, and enforcing regulations.

Problems noted include:

- State law allows PSC to deny a motor carrier entry into the motor carrier business if competitors successfully protest the application. Although state law was amended in 1984 to place the burden of proof on the protestors, applicants can be denied entry in order to protect other carriers from competition (see p. 12).
- State law allows PSC to place restrictions on carriers which cause these carriers to operate inefficiently. Some carriers cannot operate at full capacity, transport cargo for which they are suited, or operate in certain territories (see p. 13).
- PSC allows motor carriers to collectively establish rates to be charged to shippers and the public. Although this type of price setting is exempt from state antitrust laws, PSC is not specifically mandated to approve collective rate making (see p. 15).
- Between July 1984 and June 1987, PSC approved 249 (95%) of 262 motor carrier requests for rate increases without determining the need for the rate increases (see p. 16).
- PSC has no written guidelines outlining expenses which can be included in a motor carrier's rate base (see p. 17).
- PSC has no schedule or plan to review motor carriers for compliance with statutes and regulations. From FY 84-85 through FY 86-87, three PSC transportation auditors have reviewed only 82 (7%) of the 1,243 carriers (see p. 18).
- PSC has allowed companies to operate without Commission certification. This is because PSC has not strictly enforced laws governing unlicensed carriers and has not followed up on unlicensed operators that advertise their businesses to the public (see p. 20).
- PSC has not taken advantage of all federal funds available to enhance truck safety enforcement. Also, more resources are devoted to checking for violations of truck licensing and permitting than to checking for deficiencies in truck safety (see pp. 26, 29).
- Transferring PSC inspector positions to the South Carolina Department of Highways and Public Transportation would eliminate duplication of effort, strengthen truck safety enforcement, and allow the state to recoup an additional \$300,000 in federal funds for enhanced safety enforcement (see p. 26).

2. UTILITIES DIVISION

The Utilities Division is responsible for setting utility rates and monitoring service provided by utilities. Examples of problems noted include:

- Open competition in the radio common carrier industry (paging services or two-way radio services), telegraph industry, and wholesale cellular phone providers could replace PSC regulation (see p. 41).
- PSC has not ensured that financial audits are routinely performed on utility companies. These audits are needed to determine if companies are earning reasonable profits and are in compliance with PSC orders (see p. 46).
- PSC does not have written policy outlining allowable costs which can be included in a utility's cost of service (see p. 47).
- When establishing a utility's allowable return on equity, the Commission considers evidence presented by PSC staff, the utility, and other parties. However, the Commission does not specify the reason a specific return on equity is granted. Therefore, there was no documentation as to why the Commission has granted returns which exceed the minimum amount PSC staff have stated is needed to keep the utilities financially healthy and attractive to investors (see p. 49).
- PSC has not monitored water and wastewater facilities to ensure that proper and adequate service is being provided (see p. 53).
- PSC does not conduct compliance inspections on utilities on a regular basis or follow up on problems detected (see p. 54).
- Since July 1981, the Commission has not resolved over 70 outstanding complaints in the Telecommunications Department (see p. 57).
- PSC statutes and regulations are inconsistent among the utilities (see p. 60).

3. ADMINISTRATION DIVISION

An examination of PSC's Administration Division found the following:

- There are no minimum qualifications for PSC Commissioners (see p. 63).
- Approximately 18% (10 of 56) of PSC positions examined were filled by individuals who did not meet the minimum job qualifications (see p. 64).
- PSC overassesses utility companies to pay the administrative costs of the Transportation Division (see p. 65).
- Approximately \$141,000 in utility assessments has not been remitted to the General Fund by the counties for FY 85-86 and FY 86-87 (see p. 66).
- A PSC administrator has been improperly assigned a state automobile (see p. 67).

The following chapters discuss, in detail, the program and operational deficiencies found during this audit. The terms Public Service Commission, the Commission, and PSC are used interchangeably throughout this report.

4. MAJOR RECOMMENDATIONS

The Audit Council recommends that the General Assembly consider removing antitrust immunity granted motor carriers in the rate making process under §58-23-1010 of the South Carolina Code of Laws.

The Audit Council recommends that the General Assembly consider repealing the portion of §58-23-330 that allows PSC to deny an application if the public convenience and necessity is being served.

- (a) The General Assembly should continue to require PSC to determine if an applicant is fit, willing and able to provide trucking service. Criteria to define fit, willing and able should be developed. If the Commission restricts operating rights, a policy outlining reasons for carrier restrictions should be developed. The Commission should justify any restrictions in writing.
- (b) The General Assembly should consider repealing §58-23-1080 and applicable regulations requiring PSC to fix or approve motor carrier rates.
- (c) The General Assembly should consider transferring PSC inspector positions to the South Carolina Department of Highways and Public Transportation (SCDHPT). A designated number of inspectors should perform only safety inspections. The remaining inspectors should inspect trucks to ensure they are properly licensed and are in compliance with other state laws. These positions should be funded with motor carrier safety grant funds and other PSC fees.
- (d) The Governor should consider designating the SCDHPT as the agency to administer the federal safety grant program. The SCDHPT should apply for all federal funds available to fund

safety inspectors' positions, equipment, supplies, and other items. The SCDHPT should be granted authority to ensure all trucks registered to operate in South Carolina have proper liability and cargo insurance. Interstate Commerce Commission or neighboring states' minimum insurance requirements should be adopted in South Carolina. PSC Insurance Department employees should be transferred to the SCDHPT department.

- (e) Remaining PSC transportation employees should be responsible for licensing, registering, and processing applications for motor carriers applying for entry into the motor carrier industry. PSC should coordinate with the SCDHPT to determine which carriers have inadequate safety records.

The Audit Council recommends that the General Assembly consider rescinding §53-23-1510 of the South Carolina Code of Laws which allows certain cities to regulate taxicabs.

The Audit Council recommends that the General Assembly consider amending §58-23-20 of the South Carolina Code of Laws to exempt buses from PSC economic regulation.

The Audit Council recommends that the General Assembly consider allowing PSC to discontinue rate making of intrastate railroads.

The Audit Council recommends that the General Assembly consider repealing §58-11-10 through §58-11-600 and specific sections of Chapter 9 of the South Carolina Code of Laws pertaining to regulation of radio common carriers, wholesale cellular telephone providers, and telegraph services.

The General Assembly should consider requesting the Department of Consumer Affairs to receive and investigate consumer complaints for industries no longer regulated by PSC.

The South Carolina Reorganization Commission and the Public Service Commission should consider recommending needed statutory revisions for PSC during the sunset review.

The Audit Council recommends that the Public Service Merit Selection Panel consider persons with expertise in accounting, law, consumer affairs, or other professional areas when nominating persons to be elected to the Public Service Commission.

The General Assembly should consider enacting legislation to allow the Commission to revoke certificates of public convenience and necessity of companies not paying PSC assessments, and allow PSC to call a company's bond to pay delinquent assessments.

The General Assembly should consider amending §58-3-100 of the South Carolina Code of Laws to provide for the assessment of late penalties against counties that do not remit assessments to the State Treasurer when the counties collect the assessments.

CHAPTER I

BACKGROUND AND HISTORY

Utility regulation in South Carolina began in 1878 when the Railroad Commission was created to regulate railroads. In 1910, the Public Service Commission was created to "fix and establish in all cities of the state rates and charges for the supply of water, gas or electricity. . . ." In 1922, the two Commissions were merged.

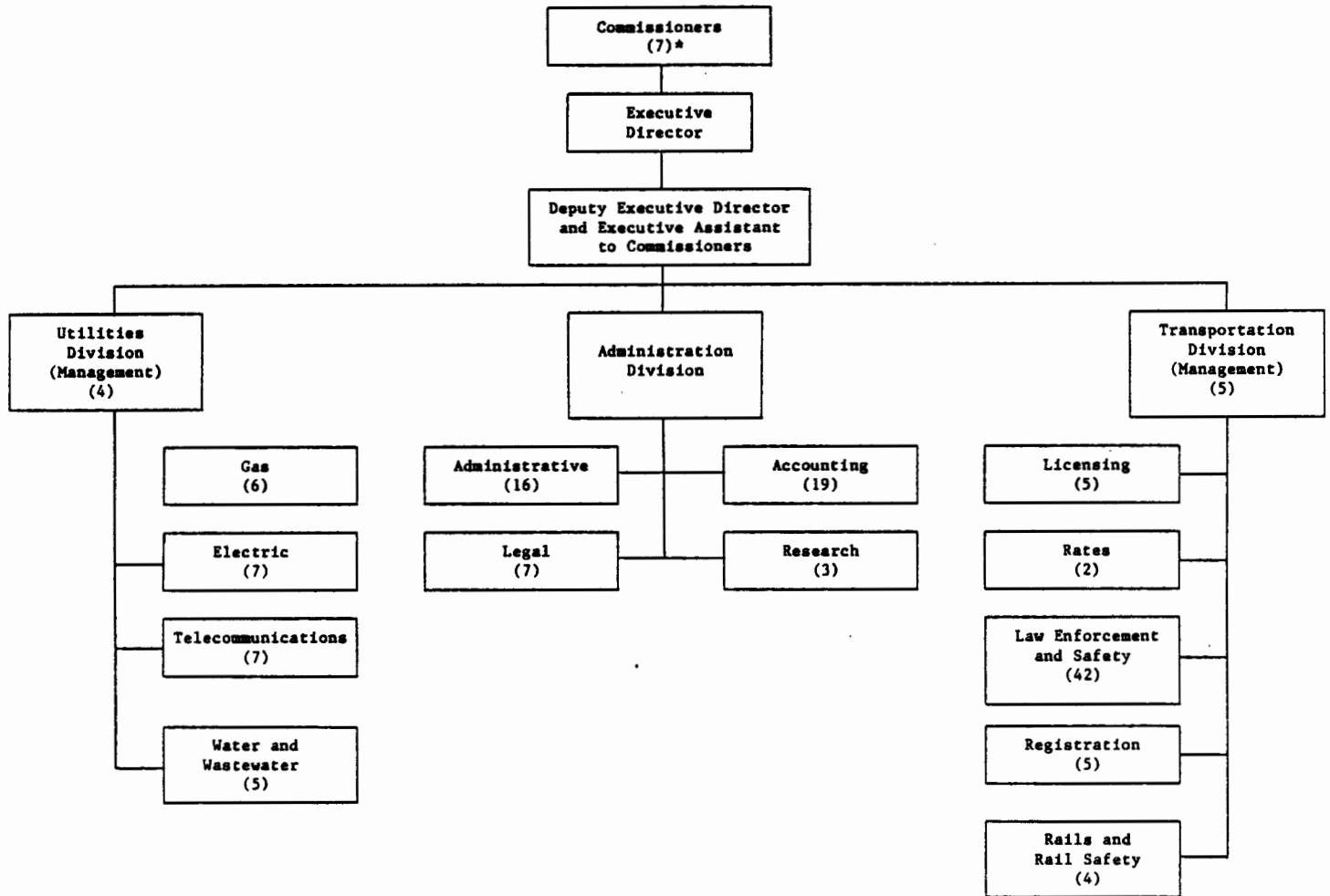
The present Commission is made up of seven members, one from each of the six congressional districts and one at-large member. Commissioners are nominated by the Public Service Merit Selection Panel and elected by the General Assembly. The primary authority of the Commission is to:

- Regulate and supervise the rates, charges, practices, and services of privately owned electric utilities.
- Approve rates and supervise services of all privately and publicly owned telephone and telegraph companies, including radio common carriers, in South Carolina.
- Regulate rates and charges, services, and practices of all privately owned gas, water, and sewerage companies, and administer the Federal Natural Gas Pipeline Safety Act of 1968.
- Supervise and regulate for-hire motor carriers of persons and property as to rates, services, schedules, routes, insurance, and safety.

As of 1986, 61 electric, gas, telephone, telegraph, and radio common carrier utilities were operating within the state. They had total plant investments of \$8.3 billion and generated gross revenues of approximately \$3.7 billion (see Table 1). An additional 126 water and sewerage companies operating within the state generated gross revenues of \$15.2 million.

To carry out its functions, PSC employs 146 staff and has an annual budget of over \$5 million. The agency is divided into three divisions: Utilities, Transportation, and Administration. Within the divisions, special functions are carried out by departments. The following organizational chart outlines PSC's various departments.

CHART 1
PUBLIC SERVICE COMMISSION



*Number of personnel if more than one.
Total FTE positions = 146.

Source: South Carolina Public Service Commission.

TABLE 1

OVERVIEW OF GROSS REVENUES GENERATED AND CAPITAL INVESTMENTS FOR THE UTILITIES

1984 THROUGH 1986

<u>Utility</u>	<u>1984</u>		<u>1985</u>		<u>1986</u>	
	<u>Gross Revenues Generated</u>	<u>Capital Investments</u>	<u>Gross Revenues Generated</u>	<u>Capital Investments</u>	<u>Gross Revenues Generated</u>	<u>Capital Investments</u>
Telecommunications (1)	\$ 791,495,904	\$2,275,781,771	\$ 962,310,767	\$2,519,571,656	\$ 984,955,019	\$2,613,735,859
Electric	1,838,266,415	5,055,528,570	1,967,467,417	5,096,254,029	2,167,031,685	5,284,174,076
Gas	644,140,445	415,521,877	550,227,203	378,748,140	505,634,116	405,900,569
Water and Wastewater	9,062,284	(2)	13,763,498	(2)	15,176,939	(2)
TOTAL	<u>\$3,282,965,048</u>	<u>\$7,746,832,218</u>	<u>\$3,493,768,885</u>	<u>\$7,994,573,825</u>	<u>\$3,672,797,759</u>	<u>\$8,303,810,504</u>

(1) Includes Mobile Communications operating in South Carolina.

(2) Not available for water and wastewater companies.

Source: South Carolina Public Service Commission Annual Reports.

CHAPTER II

REGULATION OF MOTOR CARRIERS AND TRANSPORTATION

Economic regulation of motor carriers in South Carolina began in 1928. PSC regulates all intrastate "for hire" carriers of freight, household goods, petroleum, passengers, mobile homes, and various other commodities. (There are some carrier exemptions, such as church buses, mail carriers, wreckers, and carriers of farm to market products.) PSC decides which carriers can conduct business in the state and establishes rates carriers can charge. Over 1,200 carriers are authorized to operate in South Carolina. In addition, over 12,000 certificated interstate carriers operate in South Carolina but are not subject to PSC economic regulations.

Economic regulation of motor carriers changed very little in South Carolina from 1928 until 1984. In 1984, state law was amended to relax laws which had allowed PSC to severely restrict entry into the motor carrier industry. Before 1984, an applicant had to prove that the public was not being adequately served and that a new business would not harm existing carriers. Now, the burden of proof is on the protestor to prove that the public is already being adequately served by existing carriers. According to PSC and trucking officials, it is significantly easier to obtain PSC authority to conduct business in South Carolina since state law was amended.

PSC also enforces motor carrier safety laws. The agency receives federal funds to enforce federal truck safety regulations. Ten officers are trained to inspect trucks for safety deficiencies.

Regulation of Entry Into the Motor Carrier Industry

To obtain entry into the trucking industry, an applicant must prove he is "fit, willing and able." If a protest is filed, a protestor must prove that the "public convenience and necessity" is already being served. A review of motor carrier applications found the following.

Entry Criteria

PSC has not established criteria outlining what an applicant must prove to obtain authority to operate in South Carolina. State law requires that an applicant be "fit, willing and able" to perform a proposed service. However, it is unclear how this requirement may be satisfied. For example, a carrier applying for service does not have to prove he has a safe driving history or safe and adequate equipment. An application must include the service to be performed, and list the applicant's assets, liabilities, and other resources. The Commission examines this information to determine if an applicant is "fit, willing and able."

An applicant must also pass a "public convenience and necessity" test if another carrier protests the application. The applicant presents evidence to show that the public is not being adequately served by existing carriers. The Commission listens to testimony and considers the credibility of witnesses to determine if the public convenience and necessity is already being served. If an existing carrier can prove he is already serving the "public convenience and necessity," an applicant will not gain entry. There is no criteria outlining what constitutes the "public convenience and necessity" test.

Without written criteria, applicants do not know what requirements must be met to obtain PSC authority to conduct business in South Carolina.

Entry Requirements

Although state laws pertaining to entry (§58-23-330 of the South Carolina Code of Laws) into the motor carrier industry were relaxed in 1984, PSC can prohibit entry to restrict competition. Motor carriers are still denied entry in order to protect existing carriers' businesses. From July 1984 through June 1987, PSC approved 1,012 applications for entry into the trucking industry and denied 15. According to PSC staff, the majority of the applications

approved are for limited rights to haul agricultural commodities, specialized cargo, or authority to operate a taxicab.

The following examples contrast PSC's decisions concerning applications for trucking authority:

- A motor carrier applied for authority to haul household goods in the state. PSC judged the carrier to be fit, willing and able to provide the services. However, after four carriers intervened, PSC denied the carrier authority stating that the public convenience and necessity was currently being served. The carrier had two witnesses testify that they could use his service.
- A motor carrier applied for authority to haul petroleum products in the state. Five other carriers in the state protested the application claiming that the public convenience and necessity was being served. However, PSC determined the new service was needed and approved the carrier's application.

Also, carriers amend their applications to avoid protests. For example, a house mover applied to amend his certificate to delete a restriction against certain types of hauls. Three carriers protested the application. One protest was withdrawn after the applicant agreed to add a restriction to exclude the transportation of bank commodities of 100 pounds or less. Still another protestor withdrew after an additional restriction was placed on the carrier to exclude the use of van type vehicles. PSC then granted the carrier a certificate to operate with the amended restrictions, making his business less efficient and competitive.

The American Trucking Association (ATA) has found that the federal government should totally discontinue economic barriers to entry. In a 1987 report, the ATA stated:

. . . economic criteria relating to entry are no longer necessary on the federal level. There is simply no valid rationale to maintain enforced economic entry standards at the federal level.

Restricting the number of carriers allowed to conduct business results in decreased competition in the motor carrier industry.

Regulations Affect Efficiency

PSC rules and regulations allow the Commission to restrict the efficiency of motor carriers in South Carolina. All 1,200 authorized intrastate motor carriers' operations are restricted in some manner by PSC.

The following are examples of the range of anticompetitive limitations and restrictions that are placed on intrastate motor carriers by PSC:

- A package carrier can only transport packages of 50 pounds or less between points and places within a 10-mile radius of Columbia to points and places within 50 miles of this area. Another carrier can haul packages from points and places in Lexington and Richland Counties to points and places in South Carolina.
- PSC allows one carrier to haul just lumber between points and places in South Carolina. Another carrier is authorized to haul lumber, flooring, plywood, weather boarding, and sheathing between points and places in South Carolina.
- PSC allows one motor carrier to haul sand and gravel from places in Florence and Marlboro Counties to points and places in Florence and Horry Counties. However, another carrier is permitted to haul sand, gravel, dirt, fill dirt, coal, rocks, hot and cold asphalt, debris, scrap metal, and other building materials throughout the state.

PSC's rules and regulations allow the Commission to restrict the operating rights of all 1,200 intrastate carriers which results in trucking inefficiencies and inequities. In April 1987, the Audit Council requested the Federal Trade Commission (FTC) to review PSC statutes. In a letter to the Audit Council, the FTC staff stated:

During recent years, the [FTC] Commission staff has studied the effects of deregulation in many industries that in South Carolina are regulated by SCPSC. In the trucking industry, the FTC staff has found that deregulation, both at the federal and state levels, benefits consumers. Deregulation of both entry and rates in trucking at the national level and in several states has resulted in major increases in efficiency, lower transport rates, and greater availability of specialized services. [Emphasis Added]

By restricting carrier operations, state government is limiting competition in a naturally competitive industry.

Motor Carrier Ratemaking

PSC is responsible for establishing rates and tariffs for intrastate motor carriers. To establish a fair rate, PSC considers a carrier's financial operating ratio (expenses divided by revenues). The lower the ratio, the higher the margin of profit. For example, a 93% ratio means a company spends 93 cents to make \$1. The following problems were found with PSC's method of setting rates.

Collective Ratemaking

PSC allows two rate bureaus to collectively establish rates for over 380 member motor carriers. Collective ratemaking causes trucking rates to be higher than necessary because all carriers can meet and discuss rates to be collectively charged. This type of rate setting allows all carriers to charge the same rates regardless of the carriers' operating costs. Although exempt from state antitrust laws, collective ratemaking is a type of price setting that discourages price competition in the trucking industry.

A rate bureau is an organization of motor carriers who can meet and discuss rates to be charged. A bureau will submit the proposed rates to PSC for approval. For example, over 90 household goods movers belong to one rate bureau. The rates they charge to move a customer within South Carolina are all the same, and the movers are prohibited by law from competitive bidding. A 1986 PSC review of eight household goods movers requesting a rate increase revealed operating ratios from 76% to 103%. PSC awarded all movers the same rate increase, regardless of the varying need for higher rates.

Section 58-23-1010 of the South Carolina Code of Laws allows PSC to approve collectively established rates. This law states, "The commission may approve joint rates, local rates and rate agreements between two or more motor carriers" However, this law does not specifically require PSC to approve collective ratemaking, and the Commission could establish rates based on individual carrier revenue needs.

The Interstate Commerce Commission (ICC) has relaxed its control over ratemaking for interstate carriers. ICC allows zone rates, which permits interstate carriers to increase or decrease rates by a certain percentage without ICC approval. In its 1982 report, the Council recommended that PSC

allow zone rates. Intrastate long-distance telephone rates, regulated by PSC, provide only a maximum rate that can be charged. Therefore, long-distance providers can compete and charge any rate below the maximum.

By allowing collective ratemaking, carriers may discuss and vote on rates they are going to charge the public. In other competitive businesses, such activity would be illegal.

Evaluation of Need for Rate Increases

Between FY 84-85 and FY 86-87, PSC approved 249 (95%) of 262 motor carrier requests for rate increases without determining the carriers' need for these increases. These carriers did not present financial data to the Commission to justify an increase. In addition, of the 13 presenting financial data, PSC did not audit 7 to verify the data submitted. Only 2 of the 262 requests were denied. The following are examples of justifications submitted by carriers:

- One carrier stated that, "Due to our overall increase in operating costs, we feel the need to request these increases." The increases were granted.
- A bus company requested and was granted a "holiday surcharge" without justifying the financial need for the additional revenue.
- A company requested and received a rate increase without stating a reason the increase was needed.

Motor carriers requesting rate increases have not been required to submit justification unless so ordered by PSC. Certified financial statements or financial records, balance sheets, profit loss statements, accountant reports, or other relevant information has not been required to be submitted.

PSC Regulation 103-191 states that motor carrier rates established by PSC shall be just and reasonable. Regulation 103-194 allows PSC to consider the financial need of a motor carrier requesting a rate increase.

During the course of the audit, PSC management enacted procedures to ensure that carriers present financial data to justify a request for a rate increase.

Motor Carrier Rate Competition

Although carriers can collectively establish rates to be charged, they can offer discounts from established rates. The discounts must be filed and approved by PSC. PSC staff stated that carriers will offer certain shippers

discounts in order to obtain and keep favorable business. Customers not provided the discounts are charged the higher rates on file. Price discounting is a manner in which motor carriers are competing within an economically regulated system.

From FY 84-85 to FY 86-87, over 400 rate discounts were filed by a rate bureau and approved by PSC. However, there has been no determination of the effect discounting has on shippers paying the full price. These shippers could be subsidizing carriers who are providing discounts to favored customers. Free market competition would allow carriers to charge discounted rates without PSC oversight.

Guidelines for Determining Motor Carrier Rates

PSC has no written guidelines to be used when determining a motor carrier's allowable costs for ratemaking purposes. Commission staff and auditors are without guidelines to determine reasonable allowable costs which can be included in a carrier's rate base. The Commission has no written guidelines pertaining to equipment depreciation schedules, profit sharing plans, and other items allowable in a carrier's rate base. In previous audits, PSC auditors have disallowed expenses such as club dues, contributions, penalties, and profit sharing.

A 1978 joint legislative study committee recommended that PSC formulate guidelines for auditors to follow when conducting financial audits on motor carriers. A 1982 Audit Council report recommended PSC set rates based on defined reasonable costs.

Without allowable cost guidelines, the Commission has less assurance that motor carriers' rates are determined in an equitable manner. Further, there is less uniformity in the performance of audits. According to PSC, auditors primarily use their judgement to determine allowable costs.

Oversight of Motor Carriers

PSC is responsible for reviewing motor carrier operations to ensure that carriers are operating in compliance with PSC rules, regulations and orders. These reviews examine and verify, in part, that carriers are charging correct shipping rates and ensure that carriers are operating within their scope of authority. Although the Audit Council cited problems with compliance reviews in its 1982 report, many of the same problems still exist.

Lack of Regular Reviews

PSC has not developed a method to ensure that all motor carriers are reviewed on a regular basis. The agency has no system or criteria for scheduling compliance reviews. There is no consideration given to the size or location of the carrier.

In addition, the number of audits performed by PSC compliance auditors has declined significantly. In 1980, PSC conducted over 400 compliance audits. However, for 3 years, FY 84-85 through FY 86-87, 82 (7%) of the 1,243 carriers were audited (see Table 2). Based on work performed over the past three years, it would take PSC approximately 46 years to review each carrier's operation one time.

TABLE 2
TRANSPORTATION COMPLIANCE AUDITS
FY 84-85 THROUGH FY 86-87

<u>Fiscal Year</u>	<u>Number of Audits</u>
84-85	31
85-86	18
86-87	33
TOTAL	82

Source: Public Service Commission Records.

PSC has three auditors responsible for conducting compliance audits of motor carriers. PSC officials stated that an average audit takes one day to

perform. If each auditor conducted two compliance audits per week, approximately 300 annually could be performed.

According to PSC's Acting Executive Director, auditors should be conducting more compliance audits. Recently, however, the emphasis has been to conduct inspections on other regulated utilities. According to PSC, the agency has increased its goal to 300 audits annually.

Motor Carrier Overcharges

PSC has not required motor carriers to refund to customers rate overcharges that were discovered during compliance audits by PSC auditors. The Audit Council found seven cases in the 82 audits examined where overcharges were not refunded to customers. PSC could have issued fines of up to \$100 for each overcharge, but has not done so.

No Follow-Up of Audits

PSC has not performed follow-up reviews to ensure that motor carriers are correcting problems cited by the compliance audits. As a result, PSC has less assurance that carriers are abiding by state laws and regulations.

For example, in 1985, one carrier was audited by PSC and results indicated rate violations ". . . so extensive the staff recommends that action be taken against the carrier to ensure proper use of rates and settlements" However, there is no evidence that any action was taken against this carrier. Also, PSC auditors recommended follow-up reviews for two other carriers. There is no evidence the reviews were conducted.

When PSC does not follow-up on recommendations made in audits, motor carriers have less incentive to adhere to state laws and regulations. Also, PSC cannot ensure that the public is being protected from improper rates charged by carriers.

Incomplete Audits

Management has not ensured that audits performed by PSC auditors are complete. In 1986, PSC developed a standard checklist for auditors to complete when reviewing carriers. However, 23 (53%) of 43 audits conducted since 1986 were not completed. For example, some auditors did not complete the audit checklist. Some audits lacked documentation to support the auditor's work.

The United States Comptroller General's Audit Standards have identified the need for collection and retention of working papers during reviews or audits of an agency's activities. These standards include:

Sufficient, competent and relevant evidence is to be obtained to afford a reasonable basis for the auditors' judgments and conclusions regarding the organization, program, activity, or function under audit. A written record of the auditors' work shall be retained in the form of working papers.

Incomplete audits result in less oversight of carriers and enforcement of motor carrier laws.

Motor Carriers Operating Without Authority

PSC has not enforced statutes pertaining to motor carriers found operating without PSC authority. As a result, nonregulated carriers are able to operate and compete with regulated carriers. PSC has not imposed fines required by law when a motor carrier is cited more than once for operating without PSC authority. For example:

- One motor carrier without PSC authority was found carrying freight 5 times in 17 months in 1986 and 1987. For the third, fourth, and fifth offenses, penalties of at least \$3,000 were required to be assessed for these offenses, but only "first offense" penalties of \$330 were assessed. Additionally, the carrier continued to advertise his services in the phone book.
- In 1986, one motor carrier without PSC authority was detected carrying freight three times in three months. The carrier was not charged with a second or third offense as required by law.

In addition, PSC has not attempted in all cases to deter unauthorized motor carrier operations that advertise to the public. For example:

- One carrier operating without PSC authority advertised his services in the phone book. In February 1987, a competing carrier requested that PSC take enforcement action against this carrier, but ten months later, no action had been taken by PSC.
- One carrier, who has been found operating without PSC authority at least five times, continues to advertise his services. No action has been taken.

Section 58-23-40 of the South Carolina Code of Laws requires motor carriers to obtain a PSC certificate of authority before operating for compensation on South Carolina highways. Also, §58-23-80 was amended in March 1985 to strengthen penalties for multiple offenses. Persons found guilty of a

second offense must be fined at least \$500 and persons found guilty of a third offense must be fined at least \$1,000. In addition, according to a 1984 Attorney General's Opinion, PSC can investigate any motor carrier to determine the propriety of its operations.

Regulated motor carriers are not being treated equitably when unlicensed motor carriers are allowed to operate. Also, the state is losing revenue generated from regulatory fees. PSC officials informed the Audit Council they have begun to enforce second and third offenses of illegal motor carriers. Further, they would investigate advertisements in the phone books.

Regulatory Inspections

PSC has not established productivity standards or goals for its 25 regulatory inspectors. These inspectors check carriers for compliance with PSC economic regulations. According to PSC management, all that is required of regulatory inspectors is a daily six-hour road patrol. There are no requirements that a certain number of trucks be inspected each week or each month.

PSC regulatory inspectors perform inspections of motor carriers to ensure compliance with all regulatory requirements. For example, inspectors check for proof that a motor carrier has PSC operating authority, is properly licensed, and is properly marked. Carriers can be fined when noncompliance is found.

The Audit Council examined the number of citations issued by the regulatory inspectors. From FY 84-85 through FY 86-87, the three inspectors with the highest reported citations averaged 357 regulatory citations. In contrast, the three inspectors with the lowest number averaged 79 citations. (PSC does not maintain records to indicate the total number of trucks inspected by regulatory inspectors.)

Productivity standards would help management ensure that a minimal number of regulatory inspections are conducted. For example, PSC management's goal for safety inspectors is 60 inspections per month.

Without productivity standards, regulatory inspectors do not know the amount of work that is expected. Also, PSC has less assurance that inspectors are producing a minimal level of work. In addition, PSC cannot accurately compare levels of work between inspectors or between districts.

Weekend and After-Hour Inspections

PSC has no plan or schedule to ensure that regulatory and safety inspectors perform "after hour" (from 5:00 p.m. to 8:00 a.m.) and weekend road checks. Of the 1,664 "after hour" and weekend shifts available in FY 85-86 and FY 86-87, only 53 (3%) were worked by PSC inspectors. As a result, PSC inspectors are primarily conducting inspections during normal working hours rather than varying their schedules to monitor unregulated traffic and unsafe trucks.

PSC safety inspectors are required by the terms of their federal grant to perform at least 25% of their inspections during other-than-normal hours. Regulatory inspectors are not required by management to perform a designated amount of after-hour or weekend inspections.

When PSC inspectors work normal business hours, unlicensed and unsafe motor carriers can adjust their schedules to by-pass inspection stations.

Motor Carriers Operating Without Insurance

PSC has allowed motor carriers and taxicabs to operate without liability or cargo insurance. In November 1987, the Council examined records of 84 carriers whose insurance was cancelled. PSC records indicate that of these 84 carriers, 31 (37%) did not have insurance for 1 or more years and 34 (40%) went from 6 to 12 months without coverage. The remaining 19 companies were uninsured for less than 6 months.

Below are examples of carriers without insurance:

- One insurance company notified PSC in October 1985 that a carrier's insurance would be cancelled on November 15, 1985. PSC then notified their inspectors in that region of the insurance cancellation. PSC took no action, allowing the carrier to operate for two years without insurance.
- One carrier's insurance was cancelled in September 1985. However, PSC took no action against the carrier until November 1987.

PSC did not take formal action against the 84 carriers until November 24, 1987. In addition, there is no evidence that these companies were fined as required by law.

Section 58-23-910 and Regulation 103-175 both require PSC to ensure that carriers keep insurance in full force and effect. Failure to do so is cause

for immediate revocation of their certificates of authority. Section 58-23-920 requires PSC to fine a carrier at least \$100 for not having proper insurance.

PSC has allowed carriers to operate without insurance because prompt action is not taken when PSC discovers noncompliance. PSC periodically reviews its records of carriers without insurance and notifies carriers they are out of compliance with state law. However, if the carriers do not obtain insurance, their certificates to conduct business are required by law to be revoked by PSC.

Minimum Liability Requirements

The minimum liability insurance requirements for motor carriers are lower than those in neighboring states. As a result, the public may not be fully protected from property damage or injuries caused by motor carrier accidents.

The following table compares South Carolina's liability and property insurance requirements to that of two neighboring states and the Interstate Commerce Commission.

TABLE 3
COMPARISON OF THE INSURANCE REQUIREMENTS
OF ICC AND TWO NEIGHBORING STATES

<u>State</u>	<u>Liability</u>	<u>Property</u>
South Carolina		
Freight	\$25,000 - \$100,000	\$10,000
Passenger	\$15,000 - \$110,000	\$ 5,000
North Carolina		
Freight	\$100,000 - \$300,000	\$50,000
Passenger	\$1,500,000 - \$5,000,000(1)	
Georgia		
Freight	\$100,000 - \$300,000	\$50,000
Passenger	\$100,000 - \$500,000	\$50,000
ICC		
Freight	\$750,000 - \$5,000,000(1)	-
Passenger	\$1,500,000 - \$5,000,000(1)	-

(1) Combined single limit which includes liability plus property insurance.

Source: Audit Council survey.

In 1982, the Audit Council recommended that PSC raise minimum liability insurance requirements. In addition, Regulation 103-170 requires motor carriers to have insurance which will cover personal injury, death, property loss or damage.

Motor Carrier Safety Program

The truck safety inspection program in South Carolina could be improved. The South Carolina Department of Highways and Public Transportation (SCDHPT) and PSC do not have a coordinated plan to detect unsafe truck operations, although both agencies perform truck safety inspections. Also, PSC has the lowest number of safety inspectors of five southeastern states surveyed, and has not taken advantage of available federal funds for the safety program.

Safety Inspectors Needed

PSC employs 10 inspectors to perform safety checks on motor carriers operating in the state, the lowest of the neighboring states (see Table 4). According to a federal official, the state does not have the number of inspectors needed to police unsafe truck traffic.

TABLE 4
NUMBER OF SAFETY INSPECTORS
IN FIVE NEIGHBORING STATES

<u>State</u>	<u>Inspectors</u>
Tennessee	106
Florida	71
North Carolina	52
Alabama	37
Georgia	33
South Carolina	10

Source: Audit Council survey.

PSC's 10 inspectors performed 5,634 truck inspections in federal FY 86-87. Almost 50% of these trucks were placed out-of-service for operating an unsafe truck on the state's highways. According to the Federal Highway Administration, the quality of inspections is adequate, but more inspectors are needed.

The Tennessee Safety Program has been recognized as one of the leading programs in the country. Tennessee has 106 safety inspectors who conducted over 80,000 inspections in 1986. Over 60% of these vehicles were placed

out-of-service. This program also checks motor carrier drivers for alcohol and drug use. South Carolina's program does not check drivers for alcohol or drug use and does not perform on-site carrier inspections.

Federal Grant Program Could Fund Additional Inspectors

PSC has not taken advantage of all the federal funds available for its truck safety program. PSC participates in the Motor Carrier Safety Assistance Program (MCSAP) whereby the federal government pays for 80% of all costs associated with a safety program. For federal FY 86-87, PSC was eligible for over \$300,000 to assist their safety program. However, PSC asked for and received \$124,000 from the federal government but spent only \$90,000. For federal FY 87-88, PSC is eligible for over \$600,000 in assistance but projects spending approximately \$260,000. When PSC does not use all of its federal funds, other states will receive these funds.

Duplication of Safety Enforcement

PSC and the South Carolina Department of Highways and Public Transportation enforce certain truck safety laws. Both agencies inspect trucks operating on state highways to determine if they meet safety laws, although SCDHPT officers do not inspect "underneath" trucks. One agency could better coordinate and perform all truck safety inspections (see p. 30).

PSC's 10 safety inspectors perform an inspection on a truck which includes approximately 75 points. PSC has been designated by the Governor's Office as the agency to enforce the federally funded safety enforcement program. The SCDHPT Size and Weight Enforcement Division inspects trucks primarily for weight, height, length, and width requirements. However, they also check tires, lights, and brakes to ensure they are in safe operating condition. In addition, the agencies have conducted their inspections at different locations. Therefore, a truck could be inspected by one agency, drive down the highway and be inspected again by another agency. If inspection functions were transferred to the SCDHPT, the complete, 75-point inspection would be conducted only by the SCDHPT.

In 1977, a private consultant recommended that inspection functions be transferred to the South Carolina Department of Highways and Public

Transportation. Also, in 1982, the Audit Council recommended the transfer of enforcement functions.

Fine Structure

The level of PSC's fines could be increased in order to deter unsafe truck operations. Safety fines range from \$45 to \$110 and are imposed at the discretion of the inspector. There is no increasing fine for second and third offenses. For example, a motor carrier found operating a truck without adequate brakes for the third time might only be fined \$45.

In contrast, PSC's regulatory fines require that larger penalties be imposed for repeat offenses. Section 58-23-80 of the South Carolina Code of Laws authorizes PSC regulatory inspectors to charge \$100 for a first offense of operating without authority and at least \$500 for a second offense. A third offense requires a fine of at least \$1,000 and up to 30 days imprisonment.

Without larger penalties and provisions for repeat offenders, motor carriers will have less incentive to comply with state and federal safety laws.

Economic Regulation: Major Issues

Trucking regulation at the federal level began in order to help protect the railroads from the trucking industry. It also was designed to support the trucking industry by restricting competition during the depression of the 1930s. The following arguments for continued regulation of trucking were analyzed.

Loss of Service to Small Communities

Proponents of continued regulation contend that regulation forces motor carriers to serve small communities. They contend that regulation forces carriers to serve unprofitable small communities, and losses are made up through more profitable routes. This service would be lost under economic deregulation.

According to the FTC staff analysis, "Empirical studies in other states suggest that South Carolina's small communities will not lose service because of trucking deregulation." Recent studies of deregulated states indicate that service has improved or remained the same in small towns and shippers are satisfied with deregulation. An Interstate Commerce Commission (ICC) study indicated that small communities' shipping rates were never subsidized by more profitable routes. In addition, there is no evidence that PSC has had to force carriers to serve small towns in South Carolina.

Destructive Price Competition

Proponents of continued regulation argue that deregulation would result in "cutthroat" and predatory pricing. Larger companies could drive smaller ones out of business over time by decreasing prices to a very low level, then raising prices when other companies are put out of business.

In February 1987, the United States General Accounting Office, the Motor Carrier Ratemaking Study Commission, the ICC, and the Justice Department concluded that predatory pricing is unlikely to occur due to deregulation. Also, there is no evidence of predatory pricing in markets that have deregulated. Because trucking is not a natural monopoly, predatory pricing could not be sustained. If a predator drove companies out of business, other

companies would enter the market when the predator increased rates to become profitable.

In addition, the Council found that predatory pricing, if it were likely, could occur with PSC regulation. This is because carriers are now able to reduce rates to any level desired without PSC scrutiny (see p. 16).

Reduced Safety

Another argument against deregulation is that it will adversely affect trucking safety. Proponents of regulation argue that carriers' profits will decline, and that safety will be secondary. It is argued that carriers will not spend resources to keep trucks well maintained and in safe working order.

According to comments from the FTC, recent studies have concluded that economic deregulation at the federal level and in other states has not affected truck safety. These studies have found no connection between net operating income and accident rates as would be expected if more intense competition reduced safety.

PSC places more emphasis on economic regulation than safety regulation. Ten inspectors are assigned the task of conducting truck safety inspections, but over twenty are responsible for policing economic violations.

Federal Trade Commission Examination of PSC

In April 1987, the Audit Council requested the Federal Trade Commission to examine PSC's statutes, rules, and regulations. The following summarizes the FTC's staff review of trucking regulations.

During recent years, the Commission staff has studied the effects of deregulation in many of the industries that in South Carolina are regulated by the SCPSC. In the trucking industry, the FTC staff has found that deregulation, at both the state and federal levels, benefits consumers. . . . We do not believe there is an economic justification for supplanting competition with government regulation of trucking. . . . By deregulating, many states have realized lower prices and increased individualized services that better meet shippers' needs. Trucking deregulation may encourage the entry of new trucking firms and the formation of new jobs. It may enhance the growth opportunities of firms that transport by truck within South Carolina, by reducing their costs and improving the quality of their distribution systems. [Emphasis Added]

Conclusion

Further relaxation of PSC laws pertaining to entry and ratemaking in the motor carrier industry would foster competition, free resources to allow for more truck safety inspections, and benefit consumers. Other states that have relaxed economic regulations report that the trucking industry is competitive and service is good. The free market is a better economic regulator of trucking than government regulation. Because PSC allows carriers to operate much as if the state was already deregulated, further relaxation of economic regulation would not be disruptive. PSC relaxed enforcement of economic regulation is evidenced by the following:

- PSC has not properly investigated and penalized truckers operating without authority. Some companies, without PSC authority to operate, advertise their business to the public.
- State transportation officials estimate that up to one-third of intrastate trucking is conducted without the required PSC authority.
- PSC rarely patrols the highways after normal working hours or on weekends in order to discover and deter unlicensed and unsafe operations.
- Over 95% (249) of the carriers granted rate increases in three years were not required to present financial information to justify the need for the increase.
- PSC has de-emphasized oversight of carriers. In three years, only 7% (82 of 1,243) of the carriers have been reviewed for compliance with PSC laws. At this rate, it would take approximately 46 years to review all carriers one time.
- When violations of regulations, such as overcharging consumers, are discovered, PSC does not take action against the violators.

The Council concludes that removing state government's control over ratemaking in the trucking industry would be in the public interest. Also, removing the entry requirement which allows PSC to deny applicants entry to limit competition is in the public interest. However, maintaining the requirement that carriers must prove they are fit, willing and able would help ensure that only carriers who maintain safe trucks and safe driving records are allowed to operate. Enforcement of this requirement should remain a PSC function.

Strengthening safety enforcement is in the public interest and could be financed with 80% federal funds. Strengthening safety enforcement is necessary

if the General Assembly allows more competition in the motor carrier industry. The Council recommends transferring 34 PSC inspector positions to the SCDHPT Size and Weight Enforcement Division to help perform truck safety inspections. The SCDHPT should ensure that all inspectors are properly trained and should adopt and enforce the safety regulations which are presently enforced by PSC. The SCDHPT should be designated as the agency to administer the motor carrier safety program. This move would benefit both agencies: PSC would be able to concentrate primarily on the regulation of utilities. The SCDHPT could improve its patrol of the highways. Further, trucks would benefit in that they would not be stopped twice by the two agencies for various inspections.

The Council also recommends that the PSC Insurance Department be transferred to the SCDHPT. The SCDHPT is already responsible for ensuring that all trucks and automobiles are properly insured and could take on the function of ensuring that carriers have proper cargo insurance. The remaining transportation staff at PSC should perform the licensing and registration functions. Also, the staff would assist in determining if applicants are fit, willing and able to perform trucking services. In addition, the SCDHPT and PSC should coordinate activities to ensure that unsafe carriers with repeat safety deficiencies have their PSC authority to operate suspended or revoked.

Recommendations

- (1) The Audit Council recommends that the General Assembly consider removing antitrust immunity granted motor carriers in the ratemaking process under §58-23-1010 of the South Carolina Code of Laws.
- (2) The Audit Council recommends that the General Assembly consider repealing the portion of §58-23-330 that allows PSC to deny an application if the public convenience and necessity is being served.
 - (a) The General Assembly should continue to require PSC to determine if an applicant is fit, willing and able to provide trucking service. Criteria to define fit, willing and able should be developed. If the Commission restricts operating rights, a policy outlining reasons for carrier

restrictions should be developed. The Commission should justify any restrictions in writing.

- (b) The General Assembly should consider repealing §58-23-1080 and applicable regulations requiring PSC to fix or approve motor carrier rates.
- (c) The General Assembly should consider transferring PSC inspector positions to the South Carolina Department of Highways and Public Transportation. A designated number of inspectors should perform only safety inspections. The remaining inspectors should inspect trucks to ensure they are properly licensed and are in compliance with other state laws. These positions should be funded with motor carrier safety grant funds and other PSC fees.
- (d) The Governor should consider designating the SCDHPT as the agency to administer the federal safety grant program. The SCDHPT should apply for all federal funds available to fund safety inspectors' positions, equipment, supplies, and other items. The SCDHPT should be granted authority to ensure all trucks registered to operate in South Carolina have proper liability and cargo insurance. IOC or neighboring states' minimum insurance requirements should be adopted in South Carolina. PSC Insurance Department employees should be transferred to the SCDHPT.
- (e) The SCDHPT should adopt and enforce United States Department of Transportation safety regulations.
- (f) Remaining PSC Transportation employees should be responsible for licensing, registering, and processing applications for motor carriers applying for entry into the motor carrier industry. PSC should coordinate with the

SCDHPT to determine which carriers have inadequate safety records.

- (g) PSC should promulgate regulations outlining penalties to be imposed against carriers with repeat safety deficiencies. These penalties should include revocation of PSC certificates for carriers with severe repeat deficiencies.

(3) If the General Assembly continues to require motor carriers to meet a "public convenience and necessity" test in order to be authorized to operate, the following changes should be considered.

- (a) All PSC safety inspectors and a portion of the regulatory inspectors should be transferred to the SCDHPT to provide for a more efficient truck safety inspection program. The necessary funds should be transferred to the SCDHPT.
- (b) The Governor should consider designating the SCDHPT as the state agency to administer the federal motor carrier safety enforcement program.
- (c) The SCDHPT should adopt and enforce United States Department of Transportation safety regulations.
- (d) PSC should either establish a maximum rate motor carriers can charge or allow them to charge "zone rates," or rates that can vary within a zone without PSC oversight. If maximum or zone rates are not allowed, PSC should set rates based on defined allowable costs. Rate increases should be based on the carriers' financial needs.
- (e) PSC should develop a schedule to ensure motor carriers are audited for compliance with PSC rules and regulations on a regular basis. Appropriate action should be taken when noncompliance is found.

- (f) PSC management should ensure that audits are properly completed and follow-up is conducted when necessary.
- (g) PSC should penalize motor carriers found operating without PSC authority as required by law. PSC should investigate businesses that advertise to the public but do not have PSC authority to operate and take appropriate action when violations are detected.
- (h) PSC should promptly enforce motor carrier insurance regulations.
- (i) PSC should consider promulgating regulations to increase motor carrier minimum insurance requirements to the level of neighboring states or the IOC.
- (j) PSC should develop workload standards for its regulatory inspectors. Inspection schedules should be varied to allow inspections during nonbusiness hours.

Other Transportation Issues

Following are other regulatory issues which need to be further examined.

Regulation of Taxicabs

PSC's statutes which allow cities, with populations of more than 30,000 but less than 50,000, to regulate entry to and rates of the taxicab industry, need further study. These cities in South Carolina have authority to restrict and regulate competition in the taxicab industry. Experiences in cities that have fewer economic restrictions indicate that service is better and fares are lower.

The FTC staff have conducted an extensive review of local taxicab regulations. The FTC concluded:

Anticompetitive regulations in the taxicab industry raise prices and may reduce the quality of service. Cities with fewer restrictions on entry, on types of taxi services, and on minimum fares have generally experienced lower fares, shorter response times, and an increase in the number of cab hours of service than have cities with extensive restrictions.

Allowing cities to regulate the taxicab market may reduce competition in a naturally competitive business.

Recommendation

- (4) The Audit Council recommends that the General Assembly consider rescinding §53-23-1510 of the South Carolina Code of Laws which allows certain cities to regulate taxicabs.

Regulation of Intrastate Bus Industry

State statutes allowing PSC to regulate the bus industry (excluding power company city buses) could be repealed. PSC has allowed at least one bus company to increase rates without proof of need, and has allowed companies to abandon rural routes. The bus industry is not a natural monopoly needing governmental regulation. There are other modes of competition, such as airplanes, cars, and passenger trains which compete with buses.

According to the Federal Trade Commission:

Deregulation of buses at the national level and in many individual states may have helped to preserve the industry because many states

evidently were failing to allow rates that covered costs or were requiring services on routes that did not allow bus transportation firms to recover costs at any price. Although deregulation has been accompanied by discontinuations of service to some small communities, the rate of decline in rural bus services has not been appreciably different than it was before deregulation of interstate routes. . . . Because there appears to be no economically defensible reason to regulate entry and prices in this industry, and because deregulation of interstate and intrastate of buses has proceeded with generally positive results in other parts of the country, we believe that the practice of continuing to regulate rates and entry in this industry in South Carolina is probably anticompetitive and detrimental to consumer welfare. [Emphasis Added]

Regulating only safety and fitness of the bus industry would allow for a more competitive bus industry. There is no evidence to suggest that service to rural areas would be significantly affected by removing economic regulation.

Recommendation

- (5) The Audit Council recommends that the General Assembly consider amending §58-23-20 of the South Carolina Code of Laws to exempt buses from PSC economic regulation.

Regulation of Railroads

PSC could discontinue regulating intrastate railroad rates and turn this function over to the federal government. This would save PSC the cost of administering rail rate regulations.

PSC is certified by the federal government to regulate intrastate railroad rates. This means that PSC's method for establishing railroad rates is in accordance with federal guidelines. If South Carolina chose not to provide this service, federal government would provide it. Turning this function over to the ICC would allow PSC to use the staff time saved on other functions.

Recommendation

- (6) The Audit Council recommends that the General Assembly consider allowing PSC to discontinue ratemaking of intrastate railroads.

Policies and Disciplinary Guidelines Needed

PSC does not have policies and disciplinary guidelines for officers who perform law enforcement duties. PSC's inspectors, who are commissioned law

enforcement officers, are without guidelines and policies to direct them in the performance of their duties. There are no policies addressing:

- The apprehension, search, and detention of suspects.
- The use or discharge of assigned weapons.
- Requalification for the use of handguns.
- Training needs of inspectors.
- Confiscation and disposal of contraband, such as alcoholic beverages or illegal drugs.

The agency has no disciplinary guidelines for law enforcement personnel addressing:

- Accounting for fines collected when issuing traffic citations, or action to be taken if funds are unaccounted for.
- Periodical checks to account for fines.
- The use of intoxicating beverages while on the job, or action to be taken against an officer convicted of driving under the influence while on or off duty.

PSC has a policy manual addressing general agency procedures, such as procedures for filing rate increases and attending conferences and seminars. Agency officials stated that they comply with Human Resource Management's personnel guidelines. Other agencies that have law enforcement duties have detailed policies and procedures. For example, the South Carolina Highway Patrol has detailed policies concerning use of equipment, enforcement methods, accounting for fines, and other law enforcement procedures.

Without written guidelines, inspectors are provided little guidance in the performance of their duties. Verbal communications can be misinterpreted or misunderstood. Further, supervisors are without guidelines to justify disciplinary action that may be necessary.

Recommendation

- (7) If PSC inspectors are not transferred to the SCDHPT, written policies and guidelines governing all aspects of PSC's law enforcement activities should be developed.

Complaint Handling

The Transportation Division does not have a centralized method for handling and logging complaints and does not keep records of all complaints on file. As a result, PSC management cannot determine the actual number of complaints and whether they were properly resolved.

Complaints in the Transportation Division are processed in two departments: (1) the Rates Department, and (2) the Safety and Enforcement Department. A review of the documented complaints indicate that the Transportation Division received 183 complaints from FY 84-85 through FY 86-87. Of the 183, 169 (92%) involved motor carriers operating without authority.

Section 58-5-270 of the South Carolina Code of Laws gives individuals and industries the right to file complaints with the Commission. In 1982, the Audit Council recommended that all departments at PSC establish a uniform complaint system. All departments within the Utilities Division at PSC have a centralized system in place whereby a log is maintained and a number is assigned for each written complaint. Also, a standardized form is used to document the necessary information concerning a complaint. Without a centralized system, division management cannot adequately determine which complaints have been resolved and the actual number received. One PSC official stated that phone-in complaints are usually not logged but are referred to an inspector for follow-up.

Recommendation

- (8) The Transportation Division should develop a centralized complaint system similar to that of the Utilities Division. The system should involve a complaint log and periodic analyses on the recurrence of complaints.

CHAPTER III

REGULATION OF UTILITIES

Introduction

PSC is vested with the authority to regulate public utilities in South Carolina through §58-3-140(A) of the South Carolina Code of Laws, which states:

The Public Service Commission is vested with power and jurisdiction to supervise and regulate the rates and service of every public utility in this State and to fix just and reasonable standards, classifications, regulations, practices, and measurements of service to be furnished, imposed, or observed, and followed by every public utility in this State.

Public utilities are defined as suppliers of electricity, natural gas, telephone, telegraph, radio common carriers (two-way radios), and water and wastewater operations. PSC does not perform economic regulation of municipal suppliers of electricity, gas, water, and sewer.

PSC determines utility entry, exit, and the territorial market limits. To regulate the utilities, the Commission, among other things, prescribes uniform accounting systems and practices, performs audits, and provides regulation and oversight on both quantity and quality of services rendered.

The 1982 federal court-ordered divestiture of the American Telephone and Telegraph Company (AT&T) changed the telecommunications industry. Long-distance carriers may now compete for interstate and interexchange long-distance service. During FY 86-87, 52 telecommunications utilities were under the jurisdiction of PSC.

Since the 1982 Audit Council report, the major electric utilities serving the state have completed construction of nuclear facilities. According to Edison Electric Institute, which is an association of electric companies, South Carolina's average residential electric bill for 1,000 kilowatt hours was \$71.51 as of July 1986. This amount is below both the regional and national averages, as the state ranked fourth of the seven southeastern states surveyed. PSC has jurisdiction over four privately owned electric utility companies operating in South Carolina.

The gas industry is experiencing changes because of developments in the Natural Gas Policy Act of 1978, which provides for voluntary transportation of gas by interstate pipelines on a nondiscriminatory basis. This means gas

companies and larger industrial companies can now purchase needed gas supplies directly from producers (spot purchases). The states have retained jurisdiction over the local distribution of gas. Thus, the Commission will monitor the spot purchases by the gas companies due to the federal changes. PSC will hold annual public hearings to review the companies' purchasing policies. PSC has set hearing dates for the five regulated gas companies. The Commission regulates an additional 32 municipalities, natural gas authorities, housing authorities, and master meters for pipeline safety only.

As of June 1987, 126 water and wastewater companies were regulated by the Commission. Regulation of water and wastewater companies is shared with the Department of Health and Environmental Control (DHEC), which is responsible for ensuring that water facilities meet the State Safe Water Drinking Act. In addition, DHEC approves the number of customers to be served by a facility, sets the engineering standards to be used in the construction of facilities, and approves the start-up of operations for service by a facility. PSC relies on DHEC to test water quality when complaints are received.

Possible Regulatory Changes

The following discussion addresses the need for regulation of radio common carriers, wholesale cellular phones, telegraph services, and inspection of liquefied petroleum gas lines. Also, the Commission should monitor long-distance providers for possible eventual deregulation.

Regulation of Radio Common Carriers and Cellular Phones

The General Assembly should consider repealing statutes which require PSC to regulate entry, rates, and service of radio common carriers and wholesale cellular phone providers in South Carolina. Competition among companies in both industries could ensure fair market rates and adequate service for consumers in the absence of regulation. Further, 15 (30%) of the 50 state utility regulatory commissions do not regulate the radio common carrier industry. Of the 15 states, 6 have deregulated since 1982.

Radio common carriers are companies which provide paging services or two-way radio services for consumers. Cellular phones are mobile telephones but are regulated under the radio common carrier regulations. The Commission does not regulate the retail sales of cellular phone services but establishes rates a wholesaler may charge a retailer for services. As of October 1987, there were six radio common carriers and seven wholesale cellular phone providers in South Carolina.

The Commission's regulatory involvement in the radio common carrier and cellular phone industries has been minimal. The following illustrates the extent of PSC's oversight.

- During FY 85-86 and FY 86-87, the Telecommunications Department received 1,334 complaints, only 2 for either radio common carriers or cellular phone providers. Both complaints were service-related.
- Since 1984, only 2 of the 64 compliance inspections conducted by the Telecommunications Department involved radio common carriers. The Commission found no problems.
- Section 58-3-140 of the South Carolina Code allows the Commission to regulate entry into the cellular phone industry, rates charged, and services provided. However, the Commission has not established regulations that specifically address wholesale cellular phone providers. Instead, oversight of the cellular phone industry has been provided based on existing radio common carrier regulations.

PSC officials stated that deregulation of radio common carriers should not adversely affect consumer rates since there is sufficient competition among companies in this industry.

Regulation of Telegraph Services

The General Assembly should consider repealing statutes which require PSC to regulate telegraph services in South Carolina. Due to technological advancements in the telecommunications industry, telegraph services are becoming an obsolete communications source.

Sections 58-9-1810 through 58-9-1860, 58-9-2310, and 58-9-2320 of the South Carolina Code of Laws allow PSC to regulate telegraph services. In a September 1987 letter to the Audit Council concerning PSC regulation of telegraph services, the Federal Trade Commission staff stated:

Abundant competition from alternative forms of rapid message delivery services, such as express mail, electronic mail, computer networking over telephone lines, and regular telephone communication, however, probably make regulatory concern about market power in telegraph services unnecessary.

Telegraph services have already been deregulated at the interstate level. Also in 1982, PSC deferred its intrastate jurisdiction of the telegraph industry to the Federal Communications Commission.

Regulation of Long-Distance Telephone Providers

The Public Service Commission has relaxed regulation allowing a degree of competition between telephone companies. The federal government ordered that the monopoly of long-distance service by the American Telephone and Telegraph Company (AT&T) be divested with states retaining regulation within Local Access and Transport Areas (LATAs).

In 1982, the United States Department of Justice's antitrust suit against AT&T was settled. AT&T was divided into 1 interstate and interLATA long-distance company, and 22 local companies organized into 7 regional operating companies. For example, Southern Bell was designated as a local company for South Carolina under BellSouth, the regional operating company. The local companies are prohibited from providing interstate or interLATA services. Consumers were given the choice of continuing to receive long-distance services from AT&T or from another carrier of the consumer's choice. However, under the

court order, PSC maintained ratemaking and regulatory jurisdiction over Southern Bell. Southern Bell and another company presently compete for intraLATA long-distance service in South Carolina.

South Carolina is divided into seven LATAs, four of which lie completely within the state and three which are centered around cities just outside of the state. The following briefly describe the difference in the handling of interLATA and intraLATA long-distance service.

- A long-distance telephone call between Columbia and Orangeburg (both of which are in the same LATA) constitutes an intraLATA call and must be transmitted by one of two competing intraLATA carriers.
- A long-distance call between Columbia and Charleston (which are in different LATAs) constitutes an interLATA call and cannot be transmitted by intraLATA carriers but must be handled by the customer's choice of an interLATA long-distance provider.

Since the divestiture of AT&T, South Carolina and 14 other states have changed or relaxed orders and regulations to promote competition among long-distance providers. In South Carolina, two companies have been approved by PSC to provide intraLATA service. PSC has set a maximum rate, and carriers may vary rates freely as long as they properly notify the Commission and stay below the maximum.

By continuing to use market forces to the ratepayer's benefit, PSC enables both the ratepayer and stockholders of long-distance companies to benefit through a competitive environment. The potential for competition can motivate companies to monitor costs, since each company will seek to offer the best services at the lowest cost to retain customers and attract new ones.

Safety Regulation of Petroleum Gas Lines

State law has not specifically provided for safety inspections of the 11 liquefied petroleum gas (LPG) systems in the state. The United States Department of Transportation (DOT) has requested PSC to assume jurisdiction over LPG systems. However, PSC has not adopted the minimum federal safety gas standards for LPG systems established by the Federal Natural Gas Pipeline Safety Act of 1968.

Section 58-5-1060 of the South Carolina Code of Laws limits PSC's authority to aspects not covered by the South Carolina Liquefied Petroleum Gas

Board. The LPG Board regulates certain aspects of LPG, but not in conjunction with the National Gas Pipeline Safety Act.

A July 1985 letter from DOT informed the Commission that by not assuming jurisdiction of LPG operators the sole policy initiative of the gas safety program had not been met. In an October 1986 letter to PSC's Chairman, a DOT official stated:

One apparent weakness in your pipeline safety program is your Commission's failure to assume jurisdiction over petroleum gas operators The extent of deterioration and leakage of these gas systems is unknown and because the characteristics of petroleum gas make them more hazardous [than] natural gas, these systems may, in time, pose a risk to the public.

In a May 1987 memorandum, the Chief of the Gas Department stated that no additional Commission staff would be required to inspect LPG systems. The Chief of the Gas Department informed the Audit Council that existing equipment could be used to assume the responsibility for this function.

In August 1985, the Commissioners directed the agency to refer the issue to the State Fire Marshal. (The State Fire Marshal is charged with the supervision and enforcement of the laws and regulations of the LPG Board). A July 1987 letter from PSC to the Assistant State Fire Marshal requested the Fire Marshal to notify the Commission of any duplication which would result from the performance of safety inspections of LPG systems by PSC.

Recommendations

- (9) The Audit Council recommends that the General Assembly consider repealing §58-11-10 through §58-11-600 and specific sections of Chapter 9 of the South Carolina Code of Laws pertaining to regulation of radio common carriers, wholesale cellular telephone providers, and telegraph services.

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In April 1988, PSC assumed jurisdiction of pipeline safety inspections of LPG systems.

- (10) The General Assembly should consider requesting the Department of Consumer Affairs to receive and investigate consumer complaints for industries no longer regulated by PSC.
- (11) PSC should continue to monitor long-distance service to determine whether further deregulation of intralata service will be feasible.

Utility Ratemaking

The Commission is responsible for establishing rates utilities can charge their customers. However, the statutes do not set policy objectives for ratemaking. Additionally, the Commission has not adopted regulations or set policies concerning ratemaking components. The Commission stated that it attempts to allow companies to remain solvent and competitive in the marketplace while protecting the public from excessive charges.

When setting rates, the Commission must consider the rate base. The rate base is an integral part of the ratemaking process and influences the costs customers have to pay for service. The investment the utility makes in order to provide service is called the rate base, and PSC uses original cost to determine a company's rate base.

After the rate base is computed, the company's actual income available is determined through examination of revenues and expenses. The Commission next decides through calculation of the company's cost of capital what return the utility is earning on its actual operations. Accounting adjustments are then made to the revenues and expenses reported by the company, which will result in changes to the rate base. Next, needed income is determined by multiplying the Commission-approved rate base by the rate of return, and additional operating revenues needed by the company is computed. When the utility's total revenue requirement has been computed, the utility customer rate schedules are adjusted to provide the prescribed gross revenue figure.

Financial Audits of Utilities

The Accounting Department performs financial audits of regulated utilities to ensure that companies are not exceeding the rates of return approved by the Commission. Also, this Department conducts audits on a company's financial records prior to a rate hearing. Problems were found in the following areas.

Schedule for Audits Needed

The Accounting Department has not used a master schedule to conduct full- and limited-scope audits to ensure that all companies are examined systematically. As a result, the majority of utilities has not been reviewed in the last eight years. These audits are needed to determine if utilities are

earning excess profits, are in sound financial condition, and are in compliance with PSC orders.

The Accounting Department establishes annual goals for the number of audits to be completed during the year. According to PSC, they have tried to concentrate on companies with the greatest consumer impact. However, there has been no formal system of placing in priority order companies with prior problems, greater consumer impact, or companies not previously audited. Since 1979, the Commission has performed 103 full- and limited-scope financial audits on 82 companies. However, 89 (52%) companies have not been audited once. Of those companies audited, one was audited five times, four companies were audited three times, and eleven companies were audited twice.

Section 58-3-140 of the South Carolina Code of Laws requires the Commission to supervise and regulate public utilities. The development of a routine, systematic schedule for conducting audits is necessary for the Commission to consistently monitor the financial status of all regulated utilities. In addition, systematic scheduling of audits is essential to the Commission's responsibility of ensuring fair and reasonable rates in the protection of the public's interest.

Written Guidelines or Agency Policy for Auditors

The Commission has not adopted audit policy for PSC's rate analysis responsibilities. As a result, inconsistencies have occurred in the financial audits.

The Audit Council reviewed the 43 financial audits of 25 telecommunications companies between 1979 and 1987. As an example of inconsistencies, two companies allowed expenses such as college booster club contributions, country club dues, private school donations, alcohol for a company party, and personal expenses as a part of the cost of service. In contrast, two other audits of telephone companies disallowed similar expenses as "non-ratemaking expenses."

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During the course of this audit, PSC developed a master schedule for auditing utilities.

The cost of service is the expenses directly associated with the production and distribution of a utility's services. According to the National Association of Regulatory Utility Commissioners (NARUC), South Carolina and New Mexico are the only two states which have not established an agency policy with respect to the inclusion of certain contributions and dues as an allowable expense in the cost of service.

The absence of agency policy can allow utilities to use non-service related expenses to increase their operating costs resulting in higher than necessary consumer rates. Also, utilities, interveners, and the public would benefit from having allowable costs set by Commission policy.

Monitoring of Auditor Productivity

The Commission has not established productivity standards to monitor the productivity of auditors in the Accounting Department. Without productivity standards and the monitoring of productivity, PSC management cannot ensure the efficient and effective operation of the Accounting Department.

According to a PSC official, the Accounting Department employs 15 auditors, including management, who perform compliance audits on both the transportation and utilities regulated by PSC. Auditors are usually assigned to audits in pairs and audit completions range from three days (for water and wastewater companies) to approximately a month (for electric utilities). However, no official records have been developed to record the auditors' time spent on individual projects, and Department officials cannot easily compare productivity among auditors.

Monitoring productivity and requiring a minimal amount of work to be performed is important in all levels of management and is generally accepted as a good management practice. Without adequate measures of employee productivity, there is less incentive for employees to maintain the amount or level of work expected by management. In addition, management cannot justify the number of employees needed to perform required functions.

Recommendations

- (12) The Commission should establish a financial audit schedule to ensure that all regulated utilities are routinely and systematically audited.

- (13) The Commission should establish agency policy concerning contributions, dues, and allowable expenses in computing costs of service of utilities.
- (14) The Accounting Department should establish written guidelines to assist auditors performing financial audits and for audits of companies for rate hearings.
- (15) The Accounting Department should prepare monthly staff reports indicating the amounts of time spent on specific job functions. Productivity standards should be developed and monitored.

Justification of Return on Common Equity

When issuing gas, electric, and telecommunications rate orders, the Commission does not document the reason an allowed return on common equity is chosen. Therefore, when examining rate cases, the Audit Council could not determine why a specific rate of return on common equity was allowed. The rate of return on common equity indicates a stockholder's return on investment. According to the Director of PSC's Research Department, the return allowed by the Commission should provide the opportunity for earnings sufficient to assure confidence in the financial integrity of the company, maintain its credit, and attract capital.

During public hearings held for rate cases, the Commission will hear testimony from PSC staff, interveners, and company officials concerning the rate of return on common equity. The decision rendered by the Commission will include the conclusions of the various testimony and allow a specific return as being "fair and reasonable." The orders do not include the specific rationale for the allowed return. Additionally, no comparisons of expected revenues for the various rates of return are provided. The following are examples of recommended rates of return and the Commission's allowed return.

- In a 1987 rate case, a company requested a 14.25% return on equity. The Commission staff recommended a range for common equity of 11% to 13%, with the most appropriate rate being between 12.5% and 13%. The Consumer Advocate's expert recommended a range from 12.5% to 13%. The Commission granted an allowable return on common equity of 13.25%. This return allowed the company to earn almost \$6 million more than was recommended by

Commission staff. There was no documentation to explain why that specific rate of return was allowed.

- In 1985, one large telephone company requested a rate of return on common equity of 16% to 17%. Commission staff recommended a range of 14.75% to 15.75%. The Commission determined a fair and reasonable rate to be 16%, but penalized the company .25% for providing poor telephone service. Had the lower range of 14.75% been granted, consumers would have saved approximately \$1 million. There was no documentation in the order as to why the higher rate was chosen.

Through its mandate to fix utility rates, PSC is responsible for ensuring that the cost of providing service is fairly distributed between the rate payers and the stockholders. However, without adequate justification to support a decision, the Audit Council could not determine if the rates being charged by the public utilities are both fair and reasonable to the public and the utilities.

RECOMMENDATION

- (16) The Commission should document the reason a specific rate of return on common equity is chosen when issuing orders on rate cases.

Inconsistent Orders for Water and Wastewater Rate Increases

A return on investment is not used to determine allowable rates for water and wastewater companies. Instead, the Commission will use an operating margin, or the amount of profit a company can earn, to establish rates. However, orders issued by the Commission do not consistently specify the allowable operating margin a company can earn. In 10 (53%) of the 19 rate orders issued for rate requests received between FY 84-85 and FY 86-87, PSC did not specify an allowable operating margin. Without a specified operating margin, Commission auditors can not ensure that companies are earning only reasonable profits.

An operating margin indicates what rate of profit a company realizes on each dollar earned. For example, a company with revenues of \$100,000 and expenses of \$60,000 would have an operating margin of 40%. However, some water and wastewater companies do not cover operating expenses, resulting in a negative operating margin. The following are examples of the treatment of operating margins during rate cases:

- PSC determined one company was losing approximately \$30,000 annually. The company requested a rate increase to cover this loss. The Commission found that the proposed increase was unreasonable and approved an alternative rate schedule. The order did not specify an allowable operating margin. But, an auditor's working paper indicated the Commission allowed an increase in revenues of \$20,000, resulting in a negative operating margin of 30.08%.
- In another case, the Commission issued an order which stated that the proposed rates and charges were unreasonable and were therefore denied. The Commission approved an alternative rate schedule but did not specify the reasons the proposed rates were unreasonable or support the merits of the approved alternative rates. The company had requested a \$3,997 (24.6%) increase which would have resulted in a negative operating margin of 137%. The order did not specify the expected additional revenues or the allowable operating margin.

In addition, PSC procedures for approving rate increases for water and wastewater companies are inconsistent with other utilities. For some water and wastewater companies, PSC has either granted 100% of the request or approved an alternate rate schedule; the orders did not reflect the examination of accounting adjustments, or the acceptance, denial, or modification of these adjustments. For electric, gas, and telephone companies, orders reflect differences and discussions on accounting adjustments.

The Commission is vested with the power to supervise and regulate the rates of every public utility in the state by §58-5-210 of the South Carolina Code of Laws. The omission of an operating margin for the water and wastewater companies does not allow Commission staff to supervise the impact of rates charges by the companies. In contrast, when approving rates for electric, gas, and telephone utilities, the Commission specifies an allowable rate of return, which can be audited and verified.

PSC is a quasi-judicial administrative agency and as such, its decisions may be scrutinized for substantial evidence by the courts. The Commission has less defense of an order in the courts without sufficient justification. Additionally, the public and the utilities cannot be ensured that the rates are fair and just.

Recommendation

- (17) The Commission should consistently write orders with sufficient justification as to the acceptance or denial of a requested rate

increase. The Commission should specify an allowable operating margin in all water and wastewater orders.

Oversight of Utilities

PSC's oversight of the public utilities could be improved in several areas. These areas are discussed below.

Compliance Inspections

The Utilities Division performs compliance inspections of the regulated utilities to monitor their adherence to PSC rules and regulations. Compliance inspections review company engineering standards, such as abandonment of facilities, provisions in case of emergency, and an inspection program of facilities. Records of interruption in service, accidents, complaint handling, meter histories, and meter testing are examined. Also, customer information such as billing cycles, computation of late charges and termination of services are reviewed. A standardized checklist has been adopted by all four departments. However, these forms have not been quantified as previously recommended by the Audit Council.

Monitoring of Water and Wastewater Facilities

PSC has not conducted compliance inspections to ensure that water and wastewater facilities are providing proper and adequate service. Also, the Commission has not coordinated with the Department of Health and Environment Control (DHEC) to monitor these facilities. An interagency agreement with DHEC would help to ensure that PSC is aware of problems found with the private water and wastewater companies.

The compliance inspections conducted by PSC are limited to administrative areas, such as complaints, customer billing and calculation of rate changes. Checks not included are quality of service and meter testing. Between rate cases, the companies are not being monitored for maintenance, condition of facility, safety, water pressure, and other items. The Commission relies upon DHEC to inspect the facilities for compliance with the State Safe Water Drinking Act and follow-up on customer complaints to indicate problem areas. The following indicates the need for compliance inspections:

- In February 1981, PSC approved the transfer of service from one company to another. Between 1981 and 1985, the company entered into agreements with DHEC to improve service and thereby comply with the State Safe Water Drinking Act. In February 1985, PSC approved a rate increase for the

company. Then in January 1986, DHEC issued an Administrative Order against the company for noncompliance with the previous agreements. Despite past problems, PSC did not conduct a compliance review until May 1986.

In addition to PSC's responsibility to supervise the regulated utilities, §58-5-710 of the South Carolina Code of Laws allows the Commission to fine any water or wastewater company up to \$100 a day for failure to provide adequate and proper service to its customers. Additionally, §58-5-720 requires companies to secure bonds to ensure that utilities provide adequate and sufficient service within their service areas. PSC also has the authority to call a company's bond and place it into receivership for failure to provide proper and adequate service.

Without proper compliance inspections, which includes assurance that companies are in compliance with DHEC regulations, PSC is not ensuring the public that water and wastewater facilities are being properly and safely operated.

Schedule for Compliance Inspections

The Telecommunications Department and Water and Wastewater Department have not established a schedule to ensure that the regulated utilities are inspected on a regular cycle. There is no systematic method for determining which companies are to be inspected. For example, a review of the Water and Wastewater Department compliance inspections for the last three fiscal years, FY 84-85 through FY 86-87, found that 67 inspections were performed. These inspections covered 46 (37%) of the approximately 124 regulated companies. Five companies were inspected once in each of the three years, while 78 (63%) were not inspected during the years examined. The Telecommunications Department conducted 64 inspections, which covered 24 (83%) of the 29 local telephone companies and 2 (33%) of the 6 radio common carriers. Three local telephone companies were inspected once in each year, 12 were inspected twice, while 11 were inspected once during the 3 years examined.

The Utilities Division sets goals annually as to the number of compliance inspections to be performed. However, there is no schedule to ensure that the same companies are not inspected each year. According to PSC officials, the departments are working to develop a master schedule. The Gas Department expanded the scope of the compliance inspections in FY 85-86 to include the

regional offices. This Department inspects the majority of the companies annually.

Follow-Up of Noncompliance

The Telecommunications Department and Water and Wastewater Department have not conducted follow-up visits or required plans of corrective action by the companies to ensure compliance with Commission rules and regulations. In addition, these departments have not notified the companies in writing of the noncompliance noted, or requested a plan of corrective action from the companies. The 1982 Audit Council report recommended that PSC monitor corrective action taken by the utilities.

The Audit Council examined compliance inspections of telephone, water, and wastewater companies conducted between FY 84-85 and FY 86-87. Ten (37%) of 27 telephone companies were cited for noncompliance. The Water and Wastewater Department found problems with 15 (33%) of 46 companies and 5 were reinspected 2 years later. The remaining ten water and wastewater companies were not revisited the following year or required to submit a corrective action plan. Neither the Telecommunications nor Water and Wastewater Departments notified the companies in writing of deficiencies found. Noncompliance was noted with customer service, deposit retention, and complaint retention. In contrast, the Electric and Gas Departments have a form letter to inform the company of noncompliance noted during the inspection. Also, the Electric Department has a procedure in place to ensure follow-up visits; the Gas Department inspects most companies on an annual basis and procedurally ensures follow-up visits. According to a PSC official, the companies should be notified in writing of any noncompliance found.

Working Papers for Compliance Inspections

The Electric Department and Water and Wastewater Department do not retain working papers to support their compliance inspections findings. By not

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As of August 1987, the Telecommunications Department began notifying companies in writing of noncompliance and requesting explanation or corrective action. According to a PSC official, a form letter has been adopted by the Water and Wastewater Department.

maintaining working papers, these departments lack documentation to support noncompliance by a utility.

The United States Comptroller General Audit Standards have recognized the need for collection and retention of working papers during reviews or audits of an agency's activities (see p. 19).

Conclusion

By not scheduling systematic reviews of companies and not maintaining working papers for compliance inspections, PSC is not effectively monitoring the regulated utilities. These inspections can point out problems before they occur. Without adequate supervision to monitor the corrective steps taken by the utilities to comply with mandates, PSC is not fulfilling its responsibility to supervise and regulate the public utilities.

Recommendations

- (18) The Commission should expand its checklist of the water and wastewater facilities to include either PSC inspection for quality of service or coordination with DHEC to monitor the operations of the private water and wastewater facilities to ensure that the companies are operating according to Commission regulations.
- (19) The Commission should establish detailed written policies and procedures for conducting compliance inspections.
- (20) The Commissioners should be informed of noncompliance found during compliance inspections.
- (21) The Commission should establish a compliance inspection schedule for each department to ensure that all regulated utilities are routinely and systematically inspected.
- (22) The Commission should ensure that public utilities are notified in writing when noncompliance is found. The companies should be required to respond with a plan of corrective action. A procedure to

ensure that follow-up visits are performed when needed should be implemented.

- (23) The Commission should maintain working papers for each compliance inspection conducted.

Complaint Handling

The Legislative Audit Council examined the complaint handling procedures of the four regulatory departments within the Utilities Division. Complaint procedures are included as a part of the agency's policies and procedures manual. However, the manual does not include provisions for analyzing complaints for trends, the use of show cause hearings (Commission ordered hearing to receive information from a regulated company), or fines for the resolution of complaints. Section 58-5-270 of the South Carolina Code of Laws gives individuals or groups the right to file complaints concerning any "public utility" under PSC's jurisdiction. Problems were found with PSC's complaint handling in several areas.

Resolution of Complaints

The Telecommunications Department has not closed or resolved 74 of approximately 4,800 complaints received between July 1981 and June 1986. These complaints have not been resolved because companies have failed to respond to PSC inquiries. The Commission wrote these companies requesting a response within 14 days as required by PSC regulations. Although the Commission can hold show cause hearings or fine companies for not responding, neither resource has been used.

Telephone companies are required by §58-9-390 to "obey and comply with each and every requirement of every order, decision, direction, rule or regulation made or prescribed by the Commission in the performance of its duties" This section also states that telephone utilities "shall do everything necessary or proper in order to secure compliance with and observance of every such order, decision, direction, rule or regulation by all of its officers, agents and employees." According to §58-9-1610, PSC can fine companies between \$25 and \$500 a day for noncompliance with the applicable

statutory requirements of the telecommunication industry and also, Commission rules, regulations, orders or provisions.

According to the Telecommunications Department staff, repeated attempts to reconcile these complaints with the involved companies have not been successful. These telephone companies were also notified in writing and requested to respond to the Commission regarding the complaints. One official stated that the open complaints could have resulted from companies neglecting to notify the Commission after resolving the complaint directly with the complainant or through a clerical error in the complaint logging procedures.

The Director of the Utilities Division stated that these complaints should have been resolved by the Department. If this were not possible, he would have requested the Commissioners to hold a show cause hearing. He stated penalties were probably unnecessary. However, PSC could have levied fines of over \$1 million for failure to respond to Commission rules and regulations.

Complaint Analysis

The Utilities Division has not analyzed complaints to identify problem areas, as was recommended in the 1982 Audit Council report. PSC has neither enacted policies to ensure that each department analyzes complaints nor detailed what should be included in the analysis. One of the means by which the Commission could supervise public utility service would be by complaint analysis to identify existing or potential problems. Although the Division sorts complaints according to type, company, and location, no analysis is performed. The Commissioners receive an annual summary of the number of complaints by type received by each department.

Monitoring of Complaints Received by Companies

PSC does not monitor complaints that are made by consumers directly to the regulated utilities. This is because regulations regarding information required by the Commission differ among the utilities, and the compliance

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According to PSC, as of May 1988, the Telecommunications Department has closed or resolved 29 of the 74 complaints and is continuing in its effort to close or resolve the remainder of the complaints.

inspections which examine complaints received by the companies are not performed on a periodic basis (see p. 54). Therefore, the Commissioners are not informed about these complaints.

The Commission has promulgated regulations which require the regulated utilities to keep records of all complaints filed by their customers. Regulations 103-516 and 103-716 of the wastewater and water utilities, respectively, require an annual summary of the complaints unresolved for ten or more days to be filed with the Commission. However, the other utilities are not required to submit such a summary. The telecommunications companies are required to file quarterly "trouble shooting" reports on service.

Complaints made to companies may be reviewed when there is a rate case or a compliance inspection performed. However, Commission staff does not routinely or systematically monitor these complaints or report to the Commissioners as recommended in the 1982 Audit Council report.

Conclusion

By not properly resolving, analyzing, and monitoring complaints, the Commission is not complying with its mandate to supervise and regulate the public utilities. As a result, the Commission could be reacting to problems and complaints concerning public utilities instead of anticipating them and taking preventive measures. The results of inadequate monitoring of complaints can include the public being subjected to substandard service, inaccurate billing, and inadequate customer relations by the utility. When complaints remain unresolved, public confidence in the Commission's regulatory oversight is diminished.

Recommendations

- (24) The Commission should ensure that all complaints received are resolved in a timely manner. The Commission should consider holding a show cause hearing or imposing fines if companies do not respond to a complaint in the required 14 days or if the complaint cannot be resolved.
- (25) The Utilities Division should establish detailed policies and procedures for resolving and analyzing complaints.

- (26) The Commission should analyze complaints on an annual basis to determine problems or trends concerning public utilities. Recommendations to findings should be reported to the Commissioners and the problem utility for corrective action.
- (27) The Commission should promulgate consistent regulations among the regulatory departments which ensure that complaints received and processed by regulated utilities are reported to the Commission on at least an annual basis.

Inconsistent Statutes and Regulations Among the Utilities

The 1982 Audit Council report recommended revision of PSC's statutory base in several areas. The Commission's regulatory responsibilities continue to contain such phrases as "in the public interest," "just and reasonable," and "public convenience and necessity." The Council recommended that more definitive statements outlining goals, objectives, and specific desired results be developed. Private consultants also made similar recommendations as far back as 1970.

In addition, the statutes and regulations governing PSC's powers for the regulated public utilities are inconsistent in several areas. There are statutory provisions for fines of all utility companies for noncompliance with statutes, rules and regulations, and Commission orders. However, the amounts of the fines for the same offense vary among the utilities (see Table 5). Additionally, the electric companies are prohibited from discriminatory rate practices, but telephone companies can offer discounted rates to employees and retirees.

TABLE 5
COMPARISON OF STATUTORY PROVISIONS
OF FINES AND PENALTIES FOR THE UTILITIES

<u>Type of Utility</u>	<u>Section</u>	<u>Reason for Penalty</u>	<u>Amount</u>
Water, Wastewater, & Gas	58-5-370	Charging a higher rate than those fixed by Commission.	\$25 to \$100
Water & Wastewater	58-5-710	Inadequate or improper service.	No more than \$100 per day
Telecommunications	58-9-1610	Noncompliance with Commission statutes, rules, regulations, and orders.	\$25 to \$500
Telecommunications	58-9-1620	Each violation of §58-9-1610 and each day of a continuing violation is a separate offense.	\$25 to \$500
Electric	58-24-2410	Noncompliance with Commission statutes, rules, regulations, and orders.	\$100 to \$5,000
Electric	58-24-2420	Each violation of §58-24-2410 and each day of a continuing violation is a separate offense.	\$100 to \$5,000

The Commission has promulgated regulations for the water and wastewater companies requiring reports not required of the other utilities. For example, the water and wastewater companies are required to file a report annually on complaints which were unresolved for ten or more days. This is not required of the other regulated utilities. Also, the telecommunications companies must file quarterly "trouble shooting" reports. Further inconsistencies are noted within the regulations requiring the companies to inform a customer who has filed a complaint that he may notify PSC of his complaint. The water companies must notify a customer if a complaint has not been resolved after seven days, while the other utilities have no specified time frame.

According to comments of the Federal Trade Commission staff, §58-27-650 may not promote competition. This section does not allow the Commission to consider rates when assigning service territories to utilities. Consideration of this information could allow for limited competition between utilities, thereby improving consumer welfare by the provision of service at a lower cost.

Inconsistency within the statutory base was addressed in the 1982 Audit Council report and some statutory changes have been made. However, the above are illustrations of inconsistencies or possible restrictions which still

exist. The absence of a uniform code of statutes makes interpretation of PSC's role in the regulatory process difficult.

Recommendation

(28) The South Carolina Reorganization Commission and the Public Service Commission should consider recommending needed statutory revisions for PSC during the sunset review.

CHAPTER IV

ADMINISTRATION

The following problems were found in the administration of the Public Service Commission.

Commission Membership

There are no minimum education or experience requirements for PSC Commissioners. There are no requirements to have economists, accountants, lawyers, or other specialists on the Public Service Commission. Present Commission members have backgrounds in retail business, accounting, farming, and government.

State law establishing PSC does not require members to have any special area of expertise, but requires a selection panel to consider nominating applicants with a special expertise. (Nominees are elected by the General Assembly.) Section 58-3-25 of the South Carolina Code of Laws states in part:

In selecting persons for nomination to the Public Service Commission, the merit selection panel shall consider the knowledge and experience of the potential appointees in such varied fields as business, government, accounting, law, engineering, statistics, consumer affairs and finance.

The Council reviewed Commission requirements of three nearby states. Georgia commissioners are elected by popular election. Florida has a merit selection panel which nominates no fewer than three persons for each vacancy. These nominees are submitted to the Governor, who appoints a commissioner, subject to Senate confirmation. North Carolina commissioners are appointed by the Governor, subject to approval of the General Assembly.

Other state regulatory boards require that members possess certain qualifications. For example, state law requires the Audit Council to have a practicing certified public accountant as one of its three public members.

PSC oversees private companies with annual revenues of approximately \$3.7 billion. More members specializing in law, accounting, economics, or other related professions would allow for specific expertise in Commission decision making. Also, more professionals on the Commission could improve public confidence in PSC decisions.

Recommendation

(29) The Audit Council recommends that the Public Service Merit Selection Panel consider persons with expertise in accounting, law, consumer affairs, or other professional areas when nominating persons to be elected to the Public Service Commission.

Qualifications of Staff

PSC has hired and promoted individuals whose training and experience did not meet minimum class specifications for the positions. As a result, positions have been filled with unqualified individuals.

The Audit Council requested that the Budget and Control Board's Division of Human Resource Management (HRM) examine the qualifications of 56 employees. These 56 employees primarily included supervisory positions and all transportation inspectors. Ten (18%) of 56 positions reviewed were filled by employees whose education or experience did not meet minimum job specifications at the time of appointment. For example:

- A review of PSC's transportation inspectors revealed that 5 (14%) of the 35 examined were not qualified for the positions held. All five hold supervisory positions in the Safety and Enforcement Division. These employees did not meet the job specifications because they do not have high school diplomas.
- Five other individuals did not meet minimum requirements, including three who are department supervisors.

HRM Regulation 701.04 requires agencies to fill positions with applicants that meet minimum training and experience specifications. Also, the regulation requires agencies to seek approval from the HRM Director when filling a position with an applicant that does not meet these specifications. The State Human Resource Management Director has authority to approve equivalent qualifications as may be appropriate.

These specifications are a combination of education and experience generally associated with the attainment of the minimum knowledge, skills, and abilities necessary to function in the position. When these specifications are not met, PSC cannot ensure that it is filling the vacancy with the most qualified individual available.

Recommendation

(30) PSC should fill positions with individuals who meet minimum training, experience, and educational requirements for the positions.

Assessment of Transportation for Administrative Costs

Motor carriers have not been charged for the expenses of PSC's Administration Division, resulting in an overassessment of regulated utility companies. Utilities are bearing 100% of these costs.

The Utilities Division (Electric, Gas, Telecommunications, and Water and Wastewater Departments) was assessed \$1,236,048 for FY 86-87 to support PSC's Administration Division. This Division provides support for both Utilities and Transportation, as well as supporting all costs of PSC Commissioners who used their time for both Divisions. In FY 86-87, the Utilities Division's budget was \$1,402,037 (42% of total program costs) and the Transportation Division's was \$1,965,395 (58% of total program costs). Based on these percentages, Transportation should pay approximately \$716,908 to defray administrative costs. Section 58-23-630 of the South Carolina Code of Laws requires:

All license fees for the operation of motor vehicles for hire collected by the Commission pursuant to the provisions of this article shall be deposited in the State Treasury and there shall be transferred from such collections to the general fund of the State so much as is estimated to cover the costs of administration and collection of such fees.

In a 1982 review of PSC, the Audit Council recommended that the Transportation Division be assessed its share of administrative costs.

Fees generated from motor carrier registration stamps, license tags, and motor carrier road taxes are used to defray the costs of the Transportation Division alone. Revenue remaining after paying these costs is distributed to cities and towns. In FY 86-87, \$956,688 was distributed. If the Transportation Division was assessed its administrative costs, only \$239,781 would have been distributed. Therefore, if PSC complied with state law pertaining to administrative costs, fewer funds would be available for cities and towns. According to PSC, the regulated motor carriers have never paid a portion of the Administration Division expenses.

Recommendation

(31) PSC should assess motor carriers for their "fair share" of agency administrative costs.

Collection of Public Service Commission Assessments

PSC industry assessments have not been paid to the State Treasurer in a timely manner. This problem was identified in the 1982 Audit Council report. During FY 85-86 and FY 86-87, eight counties either did not collect or remit all assessments for the regulation of public utilities by PSC to the State Treasurer. These regulated industries were assessed \$6.6 million; however, \$141,417 has not been received by the State Treasurer (see Table 6).

Regulated utilities and railroads in each county are assessed a pro rated amount based on the annual gross cash receipts as reported to the Commission by the company. The assessments of regulated utilities are divided between PSC's Administrative Division and the respective departments of the Utilities Division.

Section 58-3-100 of the South Carolina Code of Laws states, in part:

Such assessments shall be charged against such companies, . . . and be collected by the several county treasurers in the manner provided by law for the collection of taxes from such companies and shall be paid by the county treasurers as collected into the State Treasurer in the manner as other taxes collected by them for the State.

According to a PSC attorney, the Commission does not have statutory authority to collect the unpaid assessments from either the counties or the companies which are delinquent.

Table 6 displays the status of unpaid assessments for FY 85-86 and FY 86-87.

TABLE 6
UNPAID PSC ASSESSMENTS BY COUNTY

County	FY 85-86		FY 86-87		Total
	Number of Companies	Unpaid Assessments Due	Number of Companies	Unpaid Assessments Due	
Beaufort	-	\$ -	1	\$ 2,482.34	\$ 2,482.34
Charleston	1	228.04	-	-	228.04
Georgetown	-	-	1	2.63	2.63
Greenville	2	103,208.68	3	3,539.29	106,747.97
Lexington	4	2,918.21	9	3,677.19	6,595.40
Orangeburg	-	-	1	36.74	36.74
Richland	5	10,605.17	5	13,629.28	24,234.45
Spartanburg	2	536.78	2	553.01	1,089.79
TOTALS	14	\$117,496.88	22	\$23,920.48	\$141,417.36

Source: Office of the Comptroller General.

Recommendations

- (32) The General Assembly should consider enacting legislation to allow the Commission to revoke certificates of public convenience and necessity of companies not paying PSC assessments to county treasurers, and allow PSC to call a company's bond to pay delinquent assessments.
- (33) The General Assembly should consider amending §58-3-100 of the South Carolina Code of Laws to provide for the assessment of late penalties against counties that do not remit assessments to the State Treasurer when the counties collect the assessments.

Use of State Vehicle

PSC has not properly justified the permanent assignment of a state vehicle to the Assistant Director of Transportation. The Assistant Director works in an administrative capacity and does not meet Division of Motor Vehicle Management (DMVM) automobile assignment requirements.

Section 1-11-270 of the South Carolina Code of Laws requires the Budget and Control Board (B&CB) to establish criteria for the assignment of motor vehicles to individuals. B&CB Regulation 19-603 established assignment criteria including:

- Travel requirements of an appropriate number of official business miles as determined by the Board (currently 18,000 miles annually).
- Full-time line enforcement officers.

According to the Assistant Director's records, B&CB mileage requirements for individual car assignments were not met. For the years November 1, 1985 through October 31, 1986 and November 1, 1986 through October 31, 1987, he drove the car on official business approximately 8,971 (34%) of 26,102 and 6,080 (24%) of 25,624 miles, respectively. Personal mileage for these two years was 17,131 and 19,544.

The Assistant Director of Transportation stated he was assigned a car because of his law enforcement functions. However, according to the Acting Executive Director, the Assistant Director functions in an administrative position. Also, the Assistant Director's position questionnaire (PQ) contains no specific law enforcement duties. In addition, even though the Assistant Director's PQ states that he is on 24-hour call, his records indicated that from November 1985 to November 1987 he worked on 11 off-duty hours. A 1983 DMVM management review stated that the frequency of actual call-back and the urgency of employee availability should be reviewed annually to determine necessity of a car.

According to DMVM, state-owned vehicles should be used only for official state business. Assignment of a state vehicle should not be made for the personal convenience or prestige of an employee.

Recommendation

- (34) PSC should review automobile assignments to determine if job duties of the Assistant Director of Transportation warrant permanent assignment of an automobile.

APPENDICES

APPENDIX A
SUNSET ISSUES AND FINDINGS

Act 608 of 1978 requires the Audit Council to address the following eight issues in the review of agencies covered under the Sunset Act. The issues and the Council's responses are presented below.

(1) Determine the amount of the increase or reduction of costs of goods and services caused by the administering of the programs or functions of the agency under review.

Between FY 84-85 and FY 86-87, 249 motor carrier rate increases were awarded. PSC does not keep records of the total amount of these increases. In addition, over 400 rate reductions were requested and approved by PSC. In FY 86-87, PSC assessed motor carriers approximately \$3 million to pay costs of regulation.

Since 1983, the Commission has approved increases of revenues in excess of \$687 million for electric, gas, and telephone companies. Between December 1986 and January 1988, the Commission ordered rate reductions of over \$101 million for electric and gas companies. However, the Audit Council could not determine why specific rates of return on common equity were granted (see p. 49). Section 58-3-100 of the South Carolina Code of Laws requires the regulated companies to be assessed annually to cover the cost of regulation. For FY 86-87, the assessment for utilities and railroads was \$3,364,589.

(2) Determine the economic, fiscal and other impacts that would occur in the absence of the administering of the programs or functions of the agency under review.

Economic regulation of motor carriers could be relaxed and benefit both consumers and shippers. Safety regulation of motor carriers could be improved by transferring PSC safety functions and positions to the Department of Highways and Public Transportation (see Chapter 2).

Within the telecommunications industries, consideration should be given to the deregulation of radio common carriers, wholesale cellular phones, and the

telegraph companies. Regulation of the electric, gas, water, and wastewater utilities should continue in order to protect the public's interest. However, PSC should monitor the electric utilities for technical changes which might eventually warrant deregulation. According to the Federal Trade Commission staff:

. . . [r]apid technical change affecting electric utilities however, suggests that regulation of production and transmission of electricity may be unnecessary and anticompetitive in the near future.

(3) Determine the overall costs, including manpower, of the agency under review.

The overall cost of the Commission in FY 86-87 was \$5,327,055. The Commission's 146 staff positions accounted for \$3,601,649 (67.6%) of expenses. Table 7 is a detailed analysis of revenues and expenditures between FY 81-82 and FY 86-87.

TABLE 7
SOUTH CAROLINA PUBLIC SERVICE COMMISSION
ACTUAL REVENUES AND EXPENDITURES
FY 81-82 THROUGH FY 86-87

<u>Revenues</u>	<u>FY 81-82</u>	<u>FY 82-83</u>	<u>FY 83-84</u>	<u>FY 84-85</u>	<u>FY 85-86</u>	<u>FY 86-87</u>
State General Funds						
Balance from Prior Year					\$ 13,000	
Appropriation	\$3,949,253	\$4,344,777	\$4,591,633	\$4,991,817	5,401,502	\$5,509,272
Supplemental Appropriation	-	-	-	13,000	-	-
Lapsed	(93,519)	(358,944)	(242,903)	(182,638)	(120,680)	(17,964)
Carried Forward	-	-	-	(13,000)	-	-
Mid-Year Reduction	-	-	-	-	(108,030)	(186,169)
Federal Funds	138,702	43,372	355,792	23,520	20,053	21,916
Other Funds	-	713,531	122,679	-	-	-
TOTAL Funds	\$3,994,436	\$4,742,736	\$4,827,221	\$4,832,699	\$5,205,845	\$5,327,055
<u>Expenditures</u>						
Administration	\$1,092,083	\$929,569	\$1,013,838	\$1,095,379	\$1,134,533	\$1,236,047
Utility Regulation						
Management	288,814	1,036,680	462,358	382,026	456,495	406,395
Accounting	304,045	324,430	350,317	406,673	445,120	449,439
Telephone	90,990	82,563	70,775	80,455	84,965	89,640
Gas	118,604	130,934	144,226	150,241	142,321	149,870
Water and Sewage	83,936	91,280	119,210	126,529	132,176	130,037
Electric	121,027	127,344	150,752	162,123	168,649	176,657
Transportation						
Management	260,836	354,578	358,741	444,533	505,578	511,703
Railway	109,546	133,044	475,133	105,939	106,724	98,503
Motor Transportation	692,396	693,481	805,837	846,600	888,158	931,677
Registration and Safety	356,584	323,695	340,584	410,755	425,806	423,510
Non-Recurring Appropriation	-	-	-	-	9,535	-
Employee Benefits	475,575	515,138	535,450	621,446	705,785	723,577
TOTAL Expenses	\$3,994,436	\$4,742,736	\$4,827,221	\$4,832,699	\$5,205,845	\$5,327,055
TOTAL Personnel	146.00	143.36	145.36	145.36	146.36	146.36

Source: State Budget Documents, Budget and Control Board.

(4) Evaluate the efficiency of the administration of the programs or functions of the agency under review.

The primary function of PSC is to supervise and regulate motor carriers and utilities in South Carolina. PSC has no criteria outlining what a motor carrier must prove in order to obtain entry into the business (see p. 12). Motor carrier ratemaking needs improvement (see p. 15), and oversight of motor carriers is inadequate (see p. 18).

PSC has established a policies and procedures manual. However, accountability for the regulation of utilities could be improved in several areas. A master schedule to ensure that all utilities are routinely audited by both the accounting auditors (see p. 46) and utility inspectors (see p. 54) should be developed. Written guidelines and agency policy should be established for the Commission's ratemaking components (see p. 47). The Commission should document the reason a specific rate of return is awarded to the electric, gas, and telephone companies (see p. 49). An agreement should be made with DHEC to ensure that all water and wastewater companies are supplying proper and adequate service (see p. 53). PSC has placed unqualified employees into supervisory and other positions, and the agency has improperly assigned an automobile to an administrative member of the staff.

(5) Determine the extent to which the agency under review has encouraged the participation of the public and, if applicable, the industry it regulates.

The Commission requires motor carriers to advertise requests for general rate increases. Shippers are also notified when a rate increase is requested. Applications for entry into the motor carrier industry are advertised.

The Commission has advertised Commission public hearings for utilities in major newspapers throughout the state. Night hearings have been held in various parts of the state on rate matters between FY 84-85 and FY 86-87. Three electric companies have received rate increases or decreases; four night hearings have been held for two companies. The Telecommunications Department has held six night hearings for three companies' rate cases. The Water and Wastewater Department has held five public hearings. The Gas Department held no night hearings during these years.

On October 1, 1987, the Commission issued Orders 87-1119 and 87-1115 requiring all jurisdictional gas and electric companies to send each residential customer a copy of the "Bill of Rights" developed by PSC staff. The Commission wanted residential gas and electric customers to be more aware of their rights and of the resources available to them under the Commission's rules and regulations.

(6) Determine the extent to which the agency duplicates the services, functions and programs administered by any other state, federal, or other agency or entity.

Both PSC and the South Carolina Department of Highways and Public Transportation conduct similar safety inspections of motor carriers (see p. 26).

(7) Evaluate the efficiency with which formal complaints, filed with the agency concerning persons or industries subject to the regulation and administration of the agency under review, have been processed.

The Transportation Division does not have a centralized method for handling and logging complaints. Also, the Division does not keep records of all complaints on file (see p. 38).

The Utilities Division has established policies and procedures governing the processing of complaints. Table 8 shows the number of complaints received by each department for the last three years. The Audit Council sampled the handling of complaints between FY 84-85 and FY 86-87 and found several problems still exist. These include unresolved complaints in the Telecommunications Department (see p. 57), no complaint analysis (see p. 58), and inadequate monitoring of complaints received by the regulated companies (see p. 58).

TABLE 8
COMPLAINTS RECEIVED AND PROCESSED
FY 84-85 THROUGH FY 86-87

<u>Department</u>	<u>FY 84-85</u>	<u>FY 85-86</u>	<u>FY 86-87</u>
Electric	871	709	1,110
Gas	132	70	94
Telecommunications	1,179	717	781
Water & Wastewater	62	159	115
Transportation	51	83	49

Source: Public Service Commission records.

(8) Determine the extent to which the agency under review has complied with all applicable state, federal and local statutes and regulations.

PSC has not properly enforced state law by allowing motor carriers to operate without authority (see p. 20) and has granted rate increases without determining if they are just and reasonable (see p. 16). Further, the agency has allowed motor carriers to operate without insurance (see p. 22). In addition, PSC has overassessed utilities to pay administrative costs (see p. 65).

APPENDIX B
SIGNIFICANT CHANGES SINCE THE
1982 AUDIT COUNCIL REVIEW

Statutory Changes

Section 58-23-330 was amended to ease entry into the motor carrier industry.

Section 58-23-340 disallows motor carriers to sell or lease PSC certificates of convenience and necessity.

Section 58-3-140 was expanded requiring a policy and procedures manual, and an order guide for contested matters of \$100,000 or more.

Section 58-5-250 which allowed rates under bond by the utilities was repealed in 1983.

Sections 58-5-240 and 58-27-870 were amended to require the Commission to act on any proposed utility rate changes within six months or rate changes automatically become effective.

Section 58-27-865 added Fuel Adjustment Clauses to the Code of Laws.

Commission Action

The Utilities Division has developed standardized inspection forms for compliance with Commission rules and regulations.

A policy and procedures manual has been developed as mandated.

An order guide was started in FY 84-85 as required by mandate.

PSC allows competition by setting a maximum rate among the intrastate long-distance providers.

New management was appointed effective April 1, 1988.



APPENDIX C

**STATE OF SOUTH CAROLINA
THE PUBLIC SERVICE COMMISSION**

P. O. DRAWER 11649
COLUMBIA, SOUTH CAROLINA 29211

June 3, 1988

Mr. George L. Schroeder, Director
Legislative Audit Council
620 NCNB Tower
Columbia, South Carolina 29201

Dear Mr. Schroeder:

Enclosed herewith please find the Public Service Commission's written comments to the Legislative Audit Council's Sunset Review of the South Carolina Public Service Commission dated May 24, 1988.

At the beginning of this audit, I was designated to act as liaison with your staff during the course of the audit. I enjoyed the working relationship I have had with the auditors assigned to the Commission's review who, under the leadership of the Principal Auditor, Tom Bardin, conducted themselves in a very professional and courteous manner.

I certainly hope that your staff has found the Commission's staff cooperative during the course of this audit.

Yours very truly,

A handwritten signature in cursive script that reads "Charles W. Ballentine".

Charles W. Ballentine
Acting Executive Director

CWB:as

Enclosure

APPENDIX C (CONTINUED)

A SUNSET REVIEW OF THE PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA

In response to the Legislative Audit Council's report, the Commission comments as follows:

CHAPTER II TRANSPORTATION DIVISION

RECOMMENDATION

- 1 THE AUDIT COUNCIL RECOMMENDS THAT THE GENERAL ASSEMBLY CONSIDER REMOVING ANTITRUST IMMUNITY GRANTED MOTOR CARRIERS IN THE RATEMAKING PROCESS UNDER SECTION 58-23-1010 OF THE SOUTH CAROLINA CODE OF LAWS.

This is a matter for the General Assembly to address, and the Commission takes no position on this recommendation.

- 2 THE AUDIT COUNCIL RECOMMENDS THAT THE GENERAL ASSEMBLY CONSIDER REPEALING THE PORTION OF SECTION 58-23-330 THAT ALLOWS PSC TO DENY AN APPLICATION IF THE PUBLIC CONVENIENCE AND NECESSITY IS BEING SERVED.

This is a matter for the General Assembly to address, and the Commission takes no position on this recommendation.

- (A) THE GENERAL ASSEMBLY SHOULD CONTINUE TO REQUIRE PSC TO DETERMINE IF AN APPLICANT IS FIT, WILLING AND ABLE TO PROVIDE TRUCKING SERVICE. CRITERIA TO DEFINE FIT, WILLING AND ABLE SHOULD BE DEVELOPED. IF THE COMMISSION RESTRICTS OPERATING RIGHTS, A POLICY OUTLINING REASONS FOR CARRIER RESTRICTIONS SHOULD BE DEVELOPED. THE COMMISSION SHOULD JUSTIFY ANY RESTRICTIONS IN WRITING.

The Commission has no objection to this recommendation. However, the Commission does not feel that specific criteria should be developed.

- (B) THE GENERAL ASSEMBLY SHOULD CONSIDER REPEALING SECTION 58-23-1080 AND APPLICABLE REGULATIONS REQUIRING PSC TO FIX OR APPROVE MOTOR CARRIER RATES.

This is a matter for the General Assembly to address. However, the Commission feels that total rate deregulation would not be as much in the public interest as would maximum rates or "zone rates", as contained in recommendation 3(d).

- (C) THE GENERAL ASSEMBLY SHOULD CONSIDER TRANSFERRING ALL PSC INSPECTOR POSITIONS TO THE SOUTH CAROLINA

DEPARTMENT OF HIGHWAYS AND PUBLIC TRANSPORTATION. A DESIGNATED NUMBER OF INSPECTORS SHOULD PERFORM ONLY SAFETY INSPECTIONS. THE REMAINING INSPECTORS SHOULD INSPECT TRUCKS AND ENSURE THEY ARE PROPERLY LICENSED AND ARE IN COMPLIANCE WITH OTHER STATE LAWS. THESE POSITIONS SHOULD BE FUNDED WITH MOTOR CARRIER SAFETY GRANT FUNDS AND PSC REGISTRATION FEES.

The Commission feels that to transfer all economic regulatory inspectors to the SCDHPT would be counterproductive. To have another agency enforce the motor vehicle carrier laws which the Commission is charged with administering is not practical. Communication between the administrative staff and law enforcement personnel would be a major problem.

In the 1988-89 budget for the Commission, twelve new safety inspector positions are included. With the new positions and expanded safety enforcement activities for the new year, the Commission will be utilizing all federal funds available to it through the Motor Carrier Safety Assistance Program. Therefore, to transfer safety jurisdiction and personnel to the SCDHPT would not increase the federal funds utilized by the State.

In the past, the SCDHPT and Commission inspectors have not worked the same location simultaneously. However, at the present both agencies are working together to eliminate the need for vehicles to stop more than once for inspection.

The Commission feels that the Motor Carrier Safety Department will be a very effective and efficient operation which will provide the citizens of South Carolina safer highways over which to travel by removing unsafe commercial vehicles from our roads.

- (D) THE GOVERNOR SHOULD CONSIDER DESIGNATING THE SCDHPT AS THE AGENCY TO ADMINISTER THE FEDERAL SAFETY GRANT PROGRAM. THE SCDHPT SHOULD APPLY FOR ALL FEDERAL FUNDS AVAILABLE TO FUND SAFETY INSPECTORS' POSITIONS, EQUIPMENT, SUPPLIES, AND OTHER ITEMS. THE SCDHPT SHOULD BE GRANTED AUTHORITY TO ENSURE ALL TRUCKS REGISTERED TO OPERATE IN SOUTH CAROLINA HAVE PROPER LIABILITY AND CARGO INSURANCE. ICC OR NEIGHBORING STATES' MINIMUM INSURANCE REQUIREMENTS SHOULD BE ADOPTED IN SOUTH CAROLINA. PSC INSURANCE DEPARTMENT EMPLOYEES SHOULD BE TRANSFERRED TO THE SCDHPT.

The Commission's budget pending approval represents full utilization of all available federal funds for fiscal year 1988-1989. Adequate jurisdiction has been given the Commission to ensure that for-hire motor carriers have proper liability insurance, and, where warranted, cargo insurance.

Since the SCDHPT and the Commission insurance requirements differ, there appears to be no sound business

reasons for transferring the Commission's Insurance Department to the SCDHPT.

Based on the above, the Commission does not feel that SCDHPT should be designated by the Governor as the agency to administer the Federal Safety Grant Program.

- (E) THE SCDHPT SHOULD ADOPT AND ENFORCE UNITED STATES DEPARTMENT OF TRANSPORTATION SAFETY REGULATIONS.

The Commission has adopted and presently enforces the United States Department of Transportation Safety Regulations, and, therefore, feels it is unnecessary for the SCDHPT to duplicate this effort.

- (F) REMAINING PSC TRANSPORTATION EMPLOYEES SHOULD BE RESPONSIBLE FOR LICENSING, REGISTERING, AND PROCESSING APPLICATIONS FOR MOTOR CARRIERS APPLYING FOR ENTRY INTO THE MOTOR CARRIER INDUSTRY. PSC SHOULD COORDINATE WITH THE SCDHPT TO DETERMINE WHICH CARRIERS HAVE INADEQUATE SAFETY RECORDS.

The Commission feels that none of its staff should be transferred to the SCDHPT.

- (G) PSC SHOULD PROMULGATE REGULATIONS OUTLINING PENALTIES TO BE IMPOSED AGAINST CARRIERS WITH REPEAT SAFETY DEFICIENCIES. THESE PENALTIES SHOULD INCLUDE REVOCATION OF PSC CERTIFICATES FOR CARRIERS WITH SEVERE REPEAT DEFICIENCIES.

The Commission agrees with this recommendation and will endeavor to promulgate such regulations.

- 3 IF THE GENERAL ASSEMBLY CONTINUES TO REQUIRE MOTOR CARRIERS TO MEET A "PUBLIC CONVENIENCE AND NECESSITY" TEST IN ORDER TO BE AUTHORIZED TO OPERATE, THE FOLLOWING CHANGES SHOULD BE CONSIDERED.

- (A) ALL PSC SAFETY INSPECTORS AND A PORTION OF THE REGULATORY INSPECTORS SHOULD BE TRANSFERRED TO THE SCDHPT TO PROVIDE FOR A MORE EFFICIENT TRUCK SAFETY INSPECTION PROGRAM. THE NECESSARY FUNDS SHOULD BE TRANSFERRED TO THE SCDHPT.

Same response as 2(C).

- (B) THE GOVERNOR SHOULD CONSIDER DESIGNATING THE SCDHPT AS THE STATE AGENCY TO ADMINISTER THE FEDERAL MOTOR CARRIER SAFETY ENFORCEMENT PROGRAM.

The Commission has requested twelve additional safety inspector positions and one office support position in the 1988-1989 fiscal year budget. The new personnel, along with

increased safety enforcement activities, will enable the Commission to utilize all federal funds available to South Carolina. These improvements, along with the opportunity to work simultaneous check points with SCDHPT, put the Commission in an optimum position to administer the Federal Motor Carrier Safety Enforcement Program.

- (C) THE SCDHPT SHOULD ADOPT AND ENFORCE UNITED STATES DEPARTMENT OF TRANSPORTATION SAFETY REGULATIONS.

Same as 2(E).

- (D) PSC SHOULD EITHER ESTABLISH A MAXIMUM RATE MOTOR CARRIERS CAN CHARGE OR ALLOW THEM TO CHARGE "ZONE RATES," OR RATES THAT CAN VARY WITHIN A ZONE WITHOUT PSC OVERSIGHT. IF MAXIMUM OR ZONE RATES ARE NOT ALLOWED, PSC SHOULD SET RATES BASED ON DEFINED ALLOWABLE COSTS. RATE INCREASES SHOULD BE BASED ON THE CARRIERS' FINANCIAL NEEDS.

The Commission will instruct the Staff to investigate the recommended alternatives and report its findings.

- (E) PSC SHOULD DEVELOP A SCHEDULE TO ENSURE MOTOR CARRIERS ARE AUDITED FOR COMPLIANCE WITH PSC RULES AND REGULATIONS ON A REGULAR BASIS. APPROPRIATE ACTION SHOULD BE TAKEN WHEN NONCOMPLIANCE IS FOUND.

The Commission agrees with this recommendation and has taken steps to develop a schedule to ensure motor carriers are audited and appropriate action taken when noncompliance is found.

- (F) PSC MANAGEMENT SHOULD ENSURE THAT AUDITS ARE PROPERLY COMPLETED AND FOLLOW-UP IS CONDUCTED WHEN NECESSARY.

The Commission agrees with this recommendation and has taken action to ensure that this is done.

- (G) PSC SHOULD PENALIZE MOTOR CARRIERS FOUND OPERATING WITHOUT PSC AUTHORITY AS REQUIRED BY LAW. PSC SHOULD INVESTIGATE BUSINESSES THAT ADVERTISE TO THE PUBLIC BUT DO NOT HAVE PSC AUTHORITY TO OPERATE AND TAKE APPROPRIATE ACTION WHEN VIOLATIONS ARE DETECTED.

The Commission agrees with this recommendation and will take necessary action to ensure that this is accomplished.

- (H) PSC SHOULD PROMPTLY ENFORCE MOTOR CARRIER INSURANCE REGULATIONS.

The Commission agrees with this recommendation, but does not necessarily agree with the text of the report regarding carriers operating without insurance.

- (I) PSC SHOULD CONSIDER PROMULGATING REGULATIONS TO

INCREASE MOTOR CARRIER MINIMUM INSURANCE REQUIREMENTS TO THE LEVEL OF NEIGHBORING STATES OR THE ICC.

The Commission will examine the motor carrier minimum insurance requirements.

- (J) PSC SHOULD DEVELOP WORKLOAD STANDARDS FOR ITS REGULATORY INSPECTORS. INSPECTION SCHEDULES SHOULD BE VARIED TO ALLOW INSPECTIONS DURING NONBUSINESS HOURS.

The Commission agrees with this recommendation and is taking steps to implement this.

- 4 THE AUDIT COUNCIL RECOMMENDS THAT THE GENERAL ASSEMBLY CONSIDER RESCINDING SECTION 58-23-1510 OF THE SOUTH CAROLINA CODE OF LAWS WHICH ALLOWS CERTAIN CITIES TO REGULATE TAXICABS.

This is a matter for the General Assembly to address and the Commission has no position on this recommendation.

- 5 THE AUDIT COUNCIL RECOMMENDS THAT THE GENERAL ASSEMBLY CONSIDER AMENDING SECTION 58-23-20 OF THE SOUTH CAROLINA CODE OF LAWS TO EXEMPT BUSES FROM PSC ECONOMIC REGULATION.

This is a matter for the General Assembly to address and the Commission has no position on this matter.

- 6 THE AUDIT COUNCIL RECOMMENDS THAT THE GENERAL ASSEMBLY CONSIDER ALLOWING PSC TO DISCONTINUE RATEMAKING OF INTRASTATE RAILROADS.

This is a matter for the General Assembly to address. However, the Commission is concerned that abdication of intrastate rail rate jurisdiction might adversely effect the Commission's jurisdiction over matters concerning rail safety and service, which it wishes to retain.

- 7 IF PSC INSPECTORS ARE NOT TRANSFERRED TO THE SCDHPT, WRITTEN POLICIES AND GUIDELINES GOVERNING ALL ASPECTS OF PSC'S LAW ENFORCEMENT ACTIVITIES SHOULD BE DEVELOPED.

The Commission agrees with this recommendation and is presently developing written policies and guidelines governing law enforcement activities.

- 8 THE TRANSPORTATION DIVISION SHOULD DEVELOP A CENTRALIZED COMPLAINT SYSTEM SIMILAR TO THAT OF THE UTILITIES DIVISION. THE SYSTEM SHOULD INVOLVE A COMPLAINT LOG AND PERIODIC ANALYSES ON THE RECURRENCE OF COMPLAINTS.

The Commission agrees with this recommendation and is presently implementing a centralized complaint system for the Transportation Division.

CHAPTER III
UTILITIES DIVISION

RECOMMENDATION

- 9 THE AUDIT COUNCIL RECOMMENDS THAT THE GENERAL ASSEMBLY CONSIDER REPEALING SECTION 58-11-10 THROUGH SECTION 58-11-600 AND SPECIFIC SECTIONS OF CHAPTER 9 OF THE SOUTH CAROLINA CODE OF LAWS PERTAINING TO REGULATION OF RADIO COMMON CARRIERS, WHOLESALE CELLULAR TELEPHONE PROVIDERS, AND TELEGRAPH SERVICES.

The Commission would note that Recommendation 9 would require action by the General Assembly rather than by the PSC.

- 10 THE GENERAL ASSEMBLY SHOULD CONSIDER REQUESTING THE DEPARTMENT OF CONSUMER AFFAIRS TO RECEIVE AND INVESTIGATE CONSUMER COMPLAINTS FOR INDUSTRIES NO LONGER REGULATED BY PSC.

The Commission would note that Recommendation 10 would require action by the General Assembly rather than the PSC.

- 11 PSC SHOULD CONTINUE TO MONITOR LONG-DISTANCE SERVICE TO DETERMINE WHETHER FURTHER DEREGULATION OF INTRALATA SERVICE WILL BE FEASIBLE.

The Commission will continue to monitor long-distance service to determine whether further deregulation of intralata service will be feasible by continuing to require quarterly reports and annual reports from the telephone utilities.

- 12 THE COMMISSION SHOULD ESTABLISH A FINANCIAL AUDIT SCHEDULE TO ENSURE THAT ALL REGULATED UTILITIES ARE ROUTINELY AND SYSTEMATICALLY AUDITED.

The Commission has established a financial audit schedule and is in the process of assigning audits to ensure that all regulated utilities are routinely and systematically audited.

- 13 THE COMMISSION SHOULD ESTABLISH AGENCY POLICY CONCERNING CONTRIBUTIONS, DUES, AND ALLOWABLE EXPENSES IN COMPUTING COSTS OF SERVICE OF UTILITIES.

The Commission Staff will establish and implement a policy concerning contributions, dues, and allowable expenses in computing costs of service for utilities.

- 14 THE ACCOUNTING DEPARTMENT SHOULD ESTABLISH WRITTEN GUIDELINES TO ASSIST AUDITORS PERFORMING FINANCIAL AUDITS AND FOR AUDITS OF COMPANIES FOR RATE HEARINGS.
- 15 THE ACCOUNTING DEPARTMENT SHOULD PREPARE MONTHLY STAFF REPORTS INDICATING THE AMOUNTS OF TIME SPENT ON SPECIFIC JOB FUNCTIONS. PRODUCTIVITY STANDARDS SHOULD BE DEVELOPED AND MONITORED.

The Accounting Department is in the process of establishing guidelines and procedures to implement Recommendation 14 & 15 of the Legislative Audit Council.

- 16 THE COMMISSION SHOULD DOCUMENT THE REASON A SPECIFIC RATE OF RETURN ON COMMON EQUITY IS CHOSEN WHEN ISSUING ORDERS ON RATE CASES.

The Courts of South Carolina have reviewed the rate of return granted by the Commission in many instances and have never reversed or remanded a Commission decision for insufficient findings on that issue. While the Commission feels that its findings and conclusions concerning the rate of return on common equity granted to utilities are supported by the evidence, the Commission will attempt to comply with Recommendation 16 by further documenting the reason a specific rate of return on common equity is chosen when issuing orders in rate cases.

- 17 THE COMMISSION SHOULD CONSISTENTLY WRITE ORDERS WITH SUFFICIENT JUSTIFICATION AS TO THE ACCEPTANCE OR DENIAL OF A REQUESTED RATE INCREASE. THE COMMISSION SHOULD SPECIFY AN ALLOWABLE OPERATING MARGIN IN ALL WATER AND WASTEWATER ORDERS.

The Commission will comply with Recommendation 17 of the Legislative Audit Council, however, in water and wastewater establishment cases the revenue and expense amounts are usually projections which would not provide a meaningful operating margin.

- 18 THE COMMISSION SHOULD EXPAND ITS CHECKLIST OF THE WATER AND WASTEWATER FACILITIES TO INCLUDE EITHER PSC INSPECTION FOR QUALITY OF SERVICE OR COORDINATION WITH DHEC TO MONITOR THE OPERATIONS OF THE PRIVATE WATER AND WASTEWATER FACILITIES TO ENSURE THAT THE COMPANIES ARE OPERATING ACCORDING TO COMMISSION REGULATIONS.

The Commission will comply with Recommendation 18 by coordinating with DHEC to monitor the operations of the private water and wastewater facilities to ensure that the companies are operating according to Commission regulations. The Commission Staff intends to establish a procedure with DHEC, whereby the Commission Staff will be informed of all water and wastewater systems operating below DHEC standards.

- 19 THE COMMISSION SHOULD ESTABLISH DETAILED WRITTEN POLICIES AND PROCEDURES FOR CONDUCTING COMPLIANCE INSPECTIONS.
- 20 THE COMMISSIONERS SHOULD BE INFORMED OF NONCOMPLIANCE FOUND DURING COMPLIANCE INSPECTIONS.
- 21 THE COMMISSION SHOULD ESTABLISH A COMPLIANCE INSPECTION SCHEDULE FOR EACH DEPARTMENT TO ENSURE THAT ALL REGULATED UTILITIES ARE ROUTINELY AND SYSTEMATICALLY INSPECTED.
- 22 THE COMMISSION SHOULD ENSURE THAT PUBLIC UTILITIES ARE NOTIFIED IN WRITING WHEN NONCOMPLIANCE IS FOUND. THE COMPANIES SHOULD BE REQUIRED TO RESPOND WITH A PLAN OF CORRECTIVE ACTION. A PROCEDURE TO ENSURE THAT FOLLOW-UP VISITS ARE PERFORMED WHEN NEEDED SHOULD BE IMPLEMENTED.
- 23 THE COMMISSION SHOULD MAINTAIN WORKING PAPERS FOR EACH COMPLIANCE INSPECTION CONDUCTED.

The Commission is in the process of complying with Recommendation 19, 20, 21, 22, and 23. The Commission Staff is presently working on procedures to implement the above referenced recommendations.

- 24 THE COMMISSION SHOULD ENSURE THAT ALL COMPLAINTS RECEIVED ARE RESOLVED IN A TIMELY MANNER. THE COMMISSION SHOULD CONSIDER HOLDING A SHOW CAUSE HEARING OR IMPOSING FINES IF COMPANIES DO NOT RESPOND TO A COMPLAINT IN THE REQUIRED 14 DAYS OR IF THE COMPLAINT CAN NOT BE RESOLVED.
- 25 THE UTILITIES DIVISION SHOULD ESTABLISH DETAILED POLICIES AND PROCEDURES FOR RESOLVING AND ANALYZING COMPLAINTS.
- 26 THE COMMISSION SHOULD ANALYZE COMPLAINTS ON AN ANNUAL BASIS TO DETERMINE PROBLEMS OR TRENDS CONCERNING PUBLIC UTILITIES. RECOMMENDATIONS TO FINDINGS SHOULD BE REPORTED TO THE COMMISSIONERS AND THE PROBLEM UTILITY FOR CORRECTIVE ACTION.

The Commission intends to comply with Recommendation 24, 25, and 26 of the Legislative Audit Council and is presently establishing procedures to implement the recommendations.

- 27 THE COMMISSION SHOULD PROMULGATE CONSISTENT REGULATIONS AMONG THE REGULATORY DEPARTMENTS WHICH ENSURE THAT COM-

PLAINTS RECEIVED AND PROCESSED BY REGULATED UTILITIES ARE REPORTED TO THE COMMISSION ON AT LEAST AN ANNUAL BASIS.

The Commission intends to comply with Recommendation 27, however, such a recommendation requires the instigation of a rulemaking procedure which necessitates a public hearing as well as action by the General Assembly for approval.

- 28 THE SOUTH CAROLINA REORGANIZATION COMMISSION AND THE PUBLIC SERVICE COMMISSION SHOULD CONSIDER RECOMMENDING NEEDED STATUTORY REVISIONS FOR PSC DURING THE SUNSET REVIEW.

The Commission is willing to review needed statutory revisions and consider recommendations with the assistance of the South Carolina Reorganization Commission.

CHAPTER IV ADMINISTRATION DIVISION

RECOMMENDATION

- 29 THE AUDIT COUNCIL RECOMMENDS THAT THE PUBLIC SERVICE MERIT SELECTION PANEL CONSIDER PERSONS WITH EXPERTISE IN ACCOUNTING, LAW, CONSUMER AFFAIRS, OR OTHER PROFESSIONAL AREAS WHEN NOMINATING PERSONS TO BE ELECTED TO THE PUBLIC SERVICE COMMISSION.

The matters contained in this recommendation are not in the province of the Commission.

- 30 PSC SHOULD FILL POSITIONS WITH INDIVIDUALS WHO MEET MINIMUM TRAINING, EXPERIENCE, AND EDUCATIONAL REQUIREMENTS FOR THE POSITIONS.

This Commission submits that it has recently created and filled a position of Personnel Specialist I. One of the primary functions of this position, which is new to the Commission, is to review all applicants to ensure that each applicant considered meets the minimum qualifications of the position. With the Personnel Specialist I reviewing the applications, the Commission believes that all positions will be filled with individuals who meet the minimum training, experience, and education requirements for the position or will have been approved for the position by the Budget and Control Board's Division of Human Resource Management.

- 31 PSC SHOULD ASSESS MOTOR CARRIERS FOR THEIR "FAIR SHARE" OF AGENCY ADMINISTRATIVE COSTS.

As Audit Council notes in the text of its report "if the PSC complied with State law pertaining to administrative cost, fewer funds would be available for the cities and towns." In these times of reductions or elimination of revenue sharing funds, the proposal of the Audit Council will result in financial hardship to the State's cities and towns which the Commission submits is not in the public interest. The alternative to the reductions in the funds available to the cities and towns, if this recommendation is implemented, is to increase the license and registration fees. Since these fees are set by Statute, only the General Assembly can provide for such an increase.

- 32 THE GENERAL ASSEMBLY SHOULD CONSIDER ENACTING LEGISLATION TO ALLOW THE COMMISSION TO REVOKE CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY OF COMPANIES NOT PAYING PSC ASSESSMENTS TO COUNTY TREASURERS, AND ALLOW PSC TO CALL A COMPANY'S BOND TO PAY DELINQUENT ASSESSMENTS.

The Commission has no objection to the implementation by the General Assembly of this recommendation. However, particular in the case of small water and sewer companies, the revocation of the certificate could leave State citizens with no supply of water or sewer collection and treatment services, forcing them out of their homes. Private water and sewer companies, at least in some instances, are operating where there are no alternative water or sewer collection and treatment services. The revocation of the certificate of the only provider in the area, would force the water or sewer utility out of business, leaving the State citizens without water supply or sewer collection and treatment services.

- 33 THE GENERAL ASSEMBLY SHOULD CONSIDER AMENDING SECTION 58-3-100 OF THE SOUTH CAROLINA CODE OF LAWS TO PROVIDE FOR THE ASSESSMENT OF LATE PENALTIES AGAINST COUNTIES THAT DO NOT REMIT ASSESSMENTS TO THE STATE TREASURER WHEN THE COUNTIES COLLECT THE ASSESSMENTS.

This recommendation is not in the province of the Commission and would be entirely up to the General Assembly to implement.

- 34 PSC SHOULD REVIEW AUTOMOBILE ASSIGNMENTS TO DETERMINE IF JOB DUTIES OF THE ASSISTANT DIRECTOR OF TRANSPORTATION WARRANT PERMANENT ASSIGNMENT OF AN AUTOMOBILE.

PSC is reviewing automobile assignments at this time. The Commission notes however that the Audit Council Report list basically two (2) criteria for the assignment of a State-owned vehicle to an individual. The Commission notes that R.19-603 of the Regulations sets forth other criteria. Specifically, R.19-603(6) provides that the agency head can determine that circumstances warrant individual assignment in the best interest of the State. The Commission is reviewing the assignment of vehicles in light of R.19-603 as read in full.



APPENDIX D

SOUTH CAROLINA
DEPARTMENT OF HIGHWAYS AND PUBLIC TRANSPORTATION
P.O. BOX 191
COLUMBIA, S.C. 29202

Highway Patrol
Size and Weight

Telephone: 758-3409

May 16, 1988

Mr. George L. Schroeder, Director
Legislative Audit Council
620 NCNB Tower
Columbia, S. C. 29201

Dear Mr. Schroeder:

Thank you for the opportunity to review the report of
The Transportation Unit of The S.C. Public Service Commission.

We would be receptive to the recommendation for our
Department to take the 34 jobs positions, as outlined.

Thank you again for the opportunity to review this report,
and if I can be of further assistance, please let me know.

Sincerely,

A. F. Corbin
Captain